

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

Before Sh. C. M. Garg, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 729/Del/2022 : Asstt. Year : 2011-12

M/s Sad Bhawna, C/o M/s RRA Taxindia, D-28, South Extension, Part-1, New Delhi-110049 (APPELLANT)	Vs	ACIT, Central Circle-6, New Delhi-110001 (RESPONDENT)
PAN No. AADTS4076K		

ITA No. 1336/Del/2022 : Asstt. Year : 2011-12

DCIT, Central Circle-6, New Delhi-110055 (APPELLANT)	Vs	M/s Sad Bhawna, 2D MIG Flats, WEA 17A/56, Gulabi Bagh, New Delhi-110007 (RESPONDENT)
PAN No. AADTS4076K		

Assessee by : Dr. Rakesh Gupta, Adv. &

Sh. Somil Agarwal, Adv.

Revenue by : Sh. H. K. Choudhary, CIT-DR

Date of Hearing: 05.07.2023	Date of Pronouncement: 27.09.2023
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeals have been filed by the assessee and the Revenue against the order of Id. CIT(A)-30, New Delhi dated 28.03.2022.

2. Following grounds have been raised by the Revenue:

"1. The Id. CIT(A) erred in law and on facts in deleting the addition of Rs.33,03,30,904/- made on account of donations paid for non-charitable purpose.

2. The Id. CIT(A) erred in law and on facts in deleting the addition of Rs.33,03,30,904/- without ignoring the fact that M/s FIIT JEE Ltd. has claimed expense on account of refund of scholarship in the subsequent year i.e. A.Y. 2012-13.

3. The Id. CIT(A) erred in law and on facts in deleting the addition of Rs.33,03,30,904/- disregarding the fact that M/s FIIT JEE Ltd. has filed appeal before the Hon'ble ITAT against the confirmation of the addition of disallowance of expense claimed on account of refund of scholarship by the Id. CIT(A) which is pending before Hon'ble ITAT and thus the issue involved has not attained its finality."

3. Following grounds have been raised by the assessee in ITA No. 729/Del/2022:

"1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the addition in full made by Ld. AO and has further erred in sustaining the action of Ld. AO in making addition to the extent of Rs.5.54,85,329/- (i.e. Rs.38,58,16,233/- Rs.33,03,30,904/-) on account of donation paid to M/s FIIT JEE and that too by recording incorrect facts and findings and in violation of principles of natural justice and without considering the submissions of the assessee.

2. That in any case and in any view of the matter, action of Ld. CIT(A) in sustaining the action of Ld. AO in making addition to the extent of Rs.5.54.85,329/- (i.e. Rs.38,58,16,233/- Rs.33,03,30,904/-) on account of donation paid to M/S FIIT JEE, is bad in law, illegal, against the facts and circumstances of the case.

3. That having regard to the facts and circumstances of the case, Ld. CIT(A) ought to have quashed the impugned order passed by Ld. AO as the jurisdiction was not validly assumed in accordance with law and has erred in passing the impugned order without complying the direction of Hon'ble Tribunal."

4. Heard the arguments of both the parties and perused the material available on record.

5. For the sake of ready reference and completeness, the order of the Id. CIT(A) is reproduced below:

"9. Ground nos. 1 to 6: These grounds are inter-connected and have been raised by the appellant challenging the addition made by the AO amounting to Rs. 38,54,68,675/- on account of disallowance of donations paid to the FIITJEE Group entities. The appellant, in its submission emphatically stated that the direction of Hon'ble ITAT was not complied by the AO. It was stated that the Hon'ble ITAT, while remanding matter back to the file of AO, had simply directed him to verify if the donations paid by the appellant to M/s FIITJEE Ltd was assessed in the hands of FIIT JEE Ltd and due taxes have been collected. In case the donations were found to be assessed in the hands of M/s FIIT JEE Ltd., same was required to be deleted from the appellant's income. The AO despite of noting that the FIIT JEE Ltd. had suo motu disclosed donation in its P&L account, did not allow the benefit to the assessee on the ground that M/s FIITJEE Ltd had claimed expense of same amount in subsequent year on account of "refund of scholarships".

9.1 On perusal of assessment order u/s 153C/144 dated 23.03.2015, assessment order u/s 254/153C/144 dated 31.12.2019 and appellate order dated 31.03.2017 by Ld CIT(A) and order of Hon'ble ITAT dated 19.12.2018 following facts emerge:

- a) The assessee received donations amounting to Rs.38,39,69,020/- from Shri Dinesh Kumar Goel and Smt. Lata Goel, Shri Dinesh Kumar Goel and his mother Smt. Lata Goel are promoters and substantial share holders of M/s FIIT JEE Ltd. and they control FIIT JEE group.*
- b) On receipt of donations as above, the assessee paid donation to several entities of FIIT JEE Group during A.Y. 2011-12 as mentioned by AO in para 4.3 of the order, out of which Rs.33,03,30,904/- was paid to M/s FIIT JEE Ltd.*

- c) *The donations paid by the assessee was disallowed by the AO in the original order dated 23.03.2015 as it was not made for charitable purposes but simply for the purposes of routing funds. The, assessment order was confirmed by Ld. CIT (A) in his order dated 31.03.2017.*
- d) *In response to the appeal filed by appellant, Hon'ble ITAT vide its order dated 19.12.2018 decided as under:*

"5. In the above facts and circumstances of the case, we set aside the orders of the lower authorities and remand the matter back to the file of the Assessing Officer for verification whether the income assessed in the hands of the assessee has been assessed in the hands of FIIT JEE Ltd. and due tax has been collected by the department. If the assessing officer finds on verification that the income has been assessed in the hands of FIIT JEE Ltd. and due tax has been collected then he should delete the income in the hands of the assessee. Thus, the grounds of appeal of the assessee in all the years are allowed for statistical purposes."

- e) *In compliance of the direction of Hon'ble ITAT, the AO passed order dated 31.12.2019 in which, the assessing officer noted that the appellant paid donation amounting to Rs. 33,03,30,904/- to M/s FIITJEE Ltd. therefore the remaining donations of Rs. 5,36,37,771/- paid to other entities are not covered by the directions of Hon'ble ITAT. He has further noted that M/s FIIT JEE Ltd. has disclosed the said amount in its P & L account and also that same amount was claimed as expense in the subsequent years as "refund of scholarship".*

10. On perusal of the assessment orders in the case of FIITJEE Ltd for the AY 2011-12 and 2012-13, it was noted that the FIITJEE group routed funds in the name of donations through the appellant

as 'reimbursement of scholarships' paid to the students to inflate its profit as it was planning for IPO. The donations received from the appellant was declared as revenue receipt and was credited in the P&L account in AY 2011-12. Later on when the IPO did not materialize, the Chairman, FIIT JEE Ltd, Sh. D.K. Goel and his associates devised scheme to suppress the income, by refunding the donations received from the appellant in AY 2012-13 and claiming expense thereof. During the search operation at the premises of FIIT JEE group, plethora of incriminating material were found which revealed the design of FIIT JEE Group to evade taxes. They have been discussed by the AO in detail in assessment order in AY 2012-13 in the case of FIITJEE Ltd. On the basis of detailed findings, the AO disallowed the expenses claimed by FIIT JEE Ltd on account of refund of scholarship in AY 2012-13. The disallowance made by the AO was confirmed by the Ld. CIT(A) vide his order dated 31.03.2017.

10.1 Based on the above facts, I find that the amount of donation paid to FIIT JEE Ltd by the appellant of Rs.33,03,30,904/-, which was disclosed as revenue receipt by M/s FIIT JEE Ltd in its P&L and paid taxes thereon, shall be deleted from the appellant's income as per the directions of Hon'ble ITAT reproduced at (d) above. Accordingly AO is directed to delete Rs 33,03,30,304/- from the total addition of Rs. 38,58,16,233/- made by him. The appellant thus gets part relief on these grounds of appeal."

6. The Revenue filed appeal before us on the grounds that the Id. CIT(A) erred in deleting the addition of Rs.33,03,30,904/- made on account of donations paid for non-charitable purpose.

7. The AO made addition of Rs.38,39,69,020/- paid to various entities out of which an amount of Rs.33,03,30,904/- belonging to the assessee's group which stands adjudicated by

the order of the Id. CIT(A) wherein the addition has been deleted.

8. With regard to the remaining amount of Rs.5,36,37,771/- paid to entities other than the FIIT JEE. The Id. AR argued that the amounts have been paid to FIIT JEE Hyderabad Classes Ltd., FIIT JEE Ranchi Classes Ltd., Indira Narain Jain Trust, Friends Charitable Society and Brahma Devi Trust.

9. We have gone through the the grounds taken up by the assessee before the Tribunal in ITA No.3976/Del/2017 which are as under:

"On Merits

4. That without appreciating categorical reply of assessee where it is plainly denied that assessee is not in effective receipt of any amount from FIIT JEE group which stand was taken before Id CIT-A also as noted in impugned order, the confirmation of addition of Rs 38,56,82,230/- is arbitrary and invalid being bereft of legally sustainable grounds.

5. That without appreciating mandatory jurisdictional requirement of presence of incriminating material, addition is made by the Ld. AO in assessment order which is mechanically confirmed by CIT-A without adverting to inundated binding jurisprudence available on the subject, which addition without having any linkage with search based "incriminating" material, requires to be deleted in limine.

6. That Id CIT-A made manifest error of law and facts in sustaining the addition made by Ld AO in impugned order which suffers from serious debility and is not in accordance with law and is arbitrary, invalid and unsustainable in eyes of law."

10. We find that the entire issue is a comprehensive one and pertains to disallowance of an amount of Rs.38,39,69,020/-

utilized by the assessee for non-charitable purpose. We find that the case of the assessee has run concurrently with another case namely M/s Commitment Morality Visions Education Society situated at the same premises that of the assessee and a part of conglomerate of FIIT JEE Group. We have gone through the order of the Co-ordinate Bench of Tribunal in ITA No. 3980 & 3981/Del/2017 for the A.Y. 2011-12 in the case of M/s Commitment Morality Visions Education Society. Since, the operation of these two entities, the material found, evidences gathered and the statement recorded are similar, the adjudication in the case M/s Commitment Morality Visions Education Society holds good for the assessee too. The relevant part of the order of the Co-ordinate Bench of Tribunal dated 29.06.2018 in the case of M/s Commitment Morality Visions Education Society is reproduced hereunder for ready reference:

*"8.3.5In this case, **Sh. Aseem Gupta, controller of the assessee society has admitted that how the above documents travelled to the premises of the FIITJEE Ltd. He was summoned under section 131 of the Act and his statement was recorded** on 24/12/2012 in continuation with the process of search proceedings at the premises of FIITJEE Ltd and survey proceeding at the premises of the assessee. In response to questions raised regarding opening of bank accounts of the assessee society in Canara bank (i.e. question no. 9), he stated that his friend Sh. Rajesh Gupta CA introduced him to Sh. DK Goel, Chairman of FIITJEE Ltd. and they wanted to use the assessee society for rotating the funds and in that regard the bank account opening forms and other documents of the assessee society landed at the premises of the FIITJEE Ltd. The relevant questions made to Sh. Aseem Gupta and his replies are reproduced as under:*

"Q.8. Please state about the activities of these trust/society since their formation till today.

Ans. There are no activities in these trusts since their formation till today.

Q 9. I am showing you the photocopies of the account opening form of **M/s. CMV Education Society & M/s. Sad Bhawan Trust** used for opening of bank account in Canara Bank, Hauz Khas, Delhi. Please state, do you have opened this account? If yes, also explain the nature of transaction in these accounts?

Ans:- In regards to opening of bank account of M/s. **Sadbhawana and M/s. CMV in Canara Bank, Hauz Khas, Delhi, I would** like to state that my friend Sh. Rajesh Gupta, CA, introduced me to Sh. D.K. Goel, Chairman & M.D. of M/s. FIITJEE Ltd. and Sh. Rajesh Sharma, Executive Director (Finance), M/s. FIITJEE Ltd. They wanted to use the name of my entities M/s. EMV and **M/s. Sadbhawana Trust for rotating their certain funds. I agreed to** their offer as they promised me to give Statutory Audit of some of their concern. Later on, Sh. Rajesh Sharma send me account opening form of Canara Bank, Hauz Khas, New Delhi to my office for signature. After my signature the opened bank account of **M/s CMV and M/s. Sadbhawna in the said bank.** He send me the blank cheque books for my signature which was signed by me. How the cheques were used or what amount was mentioned on them, I was never informed. M/s. FIITZEE Ltd. was having complete control over these accounts thereafter Sh. Rajesh Sharma prepared the P & L account and Balance Sheet in his office for the F.Y. 20010-11 for **M/s. CMV and M/s. Sadbhawna** and send the same to me alongwith bank statements in August, 2011. Thereafter, I prepared books of account and got accounts of these trust and society audited from my friend Sh. Ravi Gupta, CA. Till the date of receipt of P&L account and balance sheet, I was not aware about the nature of the transaction made in the bank account of these trust/society. As incentive, I was allotted statutory audit of their following account:

1. M/s. Tetrahedron Education Academy Society, 5-9-14D, Sahara Manji, Saifabad, Hyderabad -500004

2. *M/s. Srikara Educational Society, H. No. 8-3-167/D/15, 1st Floor, Kalyan Nagar, Hyderabad-500038.*
3. *M/s. Emanuel Education Society, H. No. 47-7-47, IV Lane, Dwarkanagar, Opp.- Nehru Bazar, Vishakhapatnam.*
4. *M/s. Vijetha Educational Society, H. No. 232, Shanti Plaza, KPHB Colony, Kulkatpally, Hyderabad.*

I have received Rs.60,000/- as audit fee for these concerns.

*Q. 10. Was there any agreement between you as trustee and member of **M/s. Sadbhawna and M/s. CMV Education Society** respectively and M/s. Fiitjee Ltd. or its promoter members made?*

Ans.: An agreement was signed by me as trustee/member of M/s Sadbhawna and M/s. CMV Education Society with M/s FIITJEE Ltd. This was prepared by M/s. FIITJEE Ltd. and was sent to me by Sh. Rajesh Sharma for my signature. It was regarding providing scholarship to needy students. The purpose of the said agreement was not apprehended by me at that time because I was not aware how transactions were rotated through my trust/society.

Q.11 Please state, do you have received any amount for any purpose or was likely to receive for any purpose in these trusts/societies from M/s FIITJEE Ltd. during the F.Y. 2009-10 or its promoter members, namely, Lata Goel, K K Goel, D.K. Goel, Monika Goel & Kanti Goel?

Ans. I have not received any money for any purpose and was also likely to not receive/receivable during the F.Y. 2009-10 from M/s. FIITJEE Ltd. or its promoters the name of which mentioned in question.

Q.12 Pl. state whether the said trust/society have given or have to give any amount for any purpose to M/s. FIITJEE Ltd. during the F.Y. 2009-10?

*Ans.: There were not any transactions made or accrued with M/s. FIITJEE Ltd. by the said trust, namely, **M/s. Sadbhawna and M/s. CMV Education society** when the agreement was made between trust/society and M/s FIITJEE Ltd.?*

I have signed the agreement at the time of signing the account opening form but what date they have put on it, I am not aware.

Q. 13 Pl. state whether you have made any agreement or likely to mad any agreement for receiving back donations which you have given M/s. FIITJEE Ltd. from the said trust/society.

Ans:- I have not made any such agreement for receiving back donation from M/s FIITJEE Ltd. on behalf of these trust/society. For any reason either violation of any contents of agreement or else nor I am likely to made such agreement in future."

8.3.6 We note that the statement of Shri Aseem Gupta, has not been retracted and as far as the facts of the case available on record, the assessee has not challenged truth of the statements of Sh. Aseem Gupta.

8.3.7 It is evident from the above statement, how the copies of bank account opening form and other documents of the assessee society travelled to the premises of the FIITJEE Ltd, and thus there is no doubt as these documents belong to the assessee. The assessee contended that these documents belongs to the Canara bank, however, the assessee has not discharged his onus to prove the said contention. These documents are also not with the Accordingly, we reject the contention of the assessee raised in this regard and hold that the documents mentioned in the satisfaction note under section 153C of the Act recorded by the Assessing Officer of the searched the person belong to the assessee.

8.4 The second issue, which has been raised by the Ld. counsel of the assessee that these documents are not incriminating in nature.

8.4.1 We have observed the statement of Sri Aseem Gupta, a part of which has been already reproduced above. It is evident from the statement that these documents are part of the fund rotating exercise from the assessee to M/s FIITJEE Ltd. The Controller of the society himself has admitted in response to question No. 8 that **there was no activities in the trust**. He has also admitted the fact that duly signed cheque books of the said Canara bank account was given by him to the authorities of the FIITJEE Ltd. The authorities of the FIITJEE Ltd. were having complete control over the funds available in the said bank account. Sh. Aseem kumar Gupta admitted of having ignorance of what kind of activities were carried using the name of the assessee. **Sh Aseem Gupta has admitted that for providing the name of the assessee for rotating the funds of M/s FIITJEE, he was given work of statutory audit of few concerns of FIITJEE group.**

8.4.2 Thus, when we see these documents mentioned in the satisfaction note in corroboration with the statement of Sri Assem Gupta, we do not have any hesitation in accepting that these are the documents of incriminating nature raising the doubts on the claim of the charitable activity of the assessee society. Since the bank accounts of the Canara bank has been operated and utilized by the FIITJEE Group during the year under consideration also and thus these documents including bank account opening form and other documents like memorandum of understanding etc pertain to the year under consideration. The copy of letter dated 13/09/2010 by the assessee to the Canara bank for issuing cheque book and Copy of minutes of general body meeting held on 10/09/2010 certainly pertain to the year under consideration i.e. previous year 2010-11 corresponding to the assessment year 2011-12.

8.4.3 In view of the above, we hold that the documents mentioned in the satisfaction note are incriminating qua the assessment year in consideration before us.

8.5 The third issue raised by the Ld. Counsel that the Assessing Officer is required to record the satisfaction note under section 153C of the Act as how the documents mentioned therein belong to the other person.

8.5.1 We have heard the arguments of the Ld. Counsel on this issue. According to the Ld. counsel, in the satisfaction note under section 153C of the Act, the Assessing Officer of the searched person should record how the documents not belong to the searched person and same belong to the other person. The Ld. counsel in support of the above proposition has relied on the decision of the Hon'ble High Court in the case of NS Software (supra). In the case of NS Software (supra) the satisfaction note recorded has been reproduced by the Hon 20 of the decision, which is extracted as under:

"23.07.2010

A search and operation was conducted on Raj Darbar Group of cases on 31.07.2008. During the court of search and operation at the premises of:

(i) Party A-20, Residence Cum office of Narendera Kumar Aggarwal, 1st & 2nd Floor, 7, Western Avenue, Maharani Bagh, New Delhi.

Various papers were found and seized belonging to M/s N.S. Software Pvt. Ltd. the annexure are marked as under:

Party A-20

Annexure A-26, Hard Disk containing Books of Accounts of M/s. N.S. Software Pvt. Ltd. Thus the Proceedings u/s 253C r.w.s. 153A of the Income Tax Act, 1961 are being initiated in the above case."

8.5.2 In respect of the above satisfaction note in the case of NS Software (supra), the Tribunal observed that the Assessing Officer did not indicate how vaguely referred documents in the satisfaction note were found to be belonging to the assessee within the meaning of section 153C of the Act. The Tribunal further observed that there

was no recording/reference about the contents of these documents allegedly pertaining to the assessee and even in the assessment order, no such mention had been made.

8.5.3 The Hon'ble Tribunal and observed that the Ld. Assessing Officer has not explained steps taken by him to determine that the seized material belong to the assessee firm. The Hon that the satisfaction note has been prepared in the standard mechanical format and it does not provide any details about the books of accounts which allegedly belong to the assessee firm. In view of the above observation, the Hon that the failure of the Assessing Officer to record a specific satisfaction and how the recovered material belong to the assessee in the note that preceded the notice issued under it,, vitiates the assessment.

8.5.4 In the instant case, the satisfaction note recorded by the Ld. Assessing Officer of the searched person, is available on page 15 and 16 of the paper book. The relevant extract of the same is reproduced as under:

"During the course of search and seizure operation u/s 132 conducted on 17.12.2012 on M/s. FIITJEE Limited and its promoter Shri Dinesh Kumar Goel.

From premises no FIITJEE Ftouse,29A, Kalu Sarai, Sarvpriya Vihar, New Delhi-16 documents marked as Annexure A-1 to A-8 A-01 & A-02 were found and seized & from premises no. FIITJEE Limited 7/2. Vashistht House Begumpur, Kalu Sarai, Delhi documents marked as Annexure A-1 to A-35 were found and seized.

It is seen that the above seized material contains following documents belonging to M/s. CMV Educational Society -

1 Annexure A-4, of party F02:-

Pages no 19 to 24, contain pagers of bank account of CMV Education Society.

Page no 27 contains copy of PAN No AAAAC1679A of CMV Educational Society.

Page no 36-39 contains Moa of CMV Educational Society.

Page No. 40 Contains Certify True Extracts From the Board Meeting Of CMV Educational Society Held on 23.06.2010.

Page NO 41 To 44 papers related to CMV Educational Society

Page no 45 contain ledger account of CMV Educational Society in the books of FIITJEE 01.09.2010 to 02.10.10.

2 Annexure A-20, Party F02 pages 42 to 48 contain draft MOU between society and FIITJEE Limited.

In view of the above, I am satisfied that documents seized belongs to a person other than the person searched under section 132 of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), 1961.

Hence, the proceeding u/s. 153C of the IT Act, 1961 is initiated in the case of M/s CMV Education Society."

8.5.6 It is evident that in the above satisfaction note relevant to the instant case the Assessing Officer of the searched person has recorded detail of each document and what the said document contains. The nature of the document is also clear in the satisfaction note recorded. Whereas in the case of NS software (supra), the Assessing Officer has merely mentioned that various papers belonging to the said assessee were found and seized. The Assessing Officer in said case only mentioned annexure number and contents of which were not mentioned.

8.5.7 In view of the above, in our opinion, the facts of the case of NS Software (supra) are distinguishable and thus, the ratio of the said decision of the Hon over the facts of the instant case. Accordingly, we reject the contention of the Ld. counsel on this issue.

8.5.8 In view of the aforesaid discussions, we are of the opinion that the proceedings under section 153C of the Act have been validly initiated in the case of the assessee. The grounds No. 1 to 3 of the appeal challenging the validity of the proceedings under section 153C of the Act are accordingly dismissed.

9. In ground No.4, the assessee has challenged the addition denying the stand taken by the Ld. CIT(A) that the assessee is not in effective receipt of any amount from FIITJEE Group.

9.1 The Ld. counsel submitted that source of the money in the hands of the assessee is from the promoters of the Group and thus addition if any should be made in the hands of the promoters of that group rather than in the hands of the assessee.

9.2 The Ld. DR, on the other hand, relied on the order of the lower authorities and submitted that the donations received by the assessee have not been applied for the object of the charitable purpose of the assessee society and same have been used for furtherance of the business of the FIITJEE group and therefore the action of the Assessing Officer in denying the application of the funds in terms of section 11 and 12 of the Act, is justified.

9.3 We have heard the rival submission and perused the relevant material on record. The Assessing Officer has examined the claim of application of income by the assessee as under:

"5. The assessee has obtained registration u/s 12A of the I.T. Act, 1961. However, for this the assessee has to conform to the conditions prescribed there for. The Assessing Officer is required to examine the claim of exemption/s 11 and 12 of the Act for any contravention of the relevant provisions. The assessee is required to satisfy that about the genuineness of the activities promised or claimed to be carried out in each financial year to claim the exemption. Nowhere in its replies

has the assessee Society shown evidence that the said company carried out any charitable activities during the year under consideration. Hence the assessee Society is held to have contravened the provisions relating to application of income by charitable societies and therefore the benefit of sec. 11 and 12 is denied to the assessee. The amount paid to FIITJEE Ltd is treated as its income being not utilized for the charitable purposes. Accordingly, the Society is assessed as an AOP and taxed as provided u/s provisions of sec 167B of the IT Act 1961.

6. As per Income & Expenditure statement filed along with Original Return of Income, contribution received have been shown at Rs. 23,59,65,731/-. Donations paid have been shown at Rs. 23,59,65,731/-. No other expenses have been debited on account of Charitable activities?"

9.4 Before us, the Ld. counsel has failed to explain as how the funds have been utilized for charitable purpose. In the instant case by way of collusion between the FIITJEE Group and the assessee, the funds have been given the group entities in the name of disbursement of scholarship etc. This collusion is evident from the statement of Sh. Aseem Gupta as how the cheque books of the assessee society were controlled by the authorities of the FIITJEE group. By way of providing scholarship to the meritorious students, the FIITJEE group has served its business purposes of attracting the students to various courses run by them. Thus in our opinion, the funds of the assessee society have not been utilized for the charitable purposes. We, accordingly, uphold the finding of the lower authorities in denying the exemption under section 11 and 12 of the Act. The ground No. 4 of the appeal is accordingly dismissed."

11. Since, the factual matrix and the legal proposition being similar in the instant case, respectfully following the ratio laid

down by the Co-ordinate Bench of the Tribunal in the case of M/s Commitment Morality Visions Education Society and having gone through the events taken up in the subsequent years and the action taken up by the Revenue, we hold that the appeal of the assessee is liable to be dismissed and the appeal of the Revenue is hereby allowed.

12. In the result, the appeal of the assessee is dismissed and that of the Revenue is allowed.

Order Pronounced in the Open Court on 27/09/2023.

Sd/-

(C. M. Garg)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 27/09/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR