

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

श्रीमहावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपीलसं./ITA No.: 588/Chny/2023

निर्धारण वर्ष / Assessment Year: 2017-18

St. Joseph's Development Trust
1, Genguvarpatti,
Theni – 625 203.
[PAN: AABTS-2424-F]

(अपीलार्थी/Appellant)

Income Tax Officer,
v. Exemption Ward,
No. 12, VP Rathinsamy Nadar
Road, CR Building, Bibikulam,
Madurai-625 002.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri. N.V. Lakshmi, Advocate
: Shri. AR V Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 26.12.2023

घोषणा की तारीख/Date of Pronouncement

: 29.12.2023

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal filed by the assessee is arising out of the order of Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), New Delhi, in Order No. ITBA/NFAC/S/250/2022-23/1050781833(1) dated 15.03.2023. The assessment was framed by the Income-tax Officer, Exemption Ward, Madurai for the assessment year 2017-18 dated 24.11.2019 u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as "the Act").

2. The only issue in this appeal of assessee, argued by the Ld. Counsel for the assessee, is that the CIT(A) erred in confirming the action of the Assessing Officer in assessing the interest income at Rs. 94,66,848/-, without appreciating that the interest income is not voluntary contribution and liability is attached over the interest income. For this assessee has raised various grounds 10 in numbers, which are argumentative, exhaustive and factual and hence no need to be reproduced.

3. Brief facts of the case are that, the assessee is a charitable trust having valid registration u/s. 12AA of the Act, for the relevant assessment year 2017-18. The assessee filed its return of income on 24.10.2017 and assessee's case was selected for scrutiny by issuing notice u/s. 143(2) of the Act, on 22.09.2019. During the course of assessment proceedings, the Assessing Officer noticed that a sum of Rs. 94,66,848/- mainly comprising of interest on fixed deposits was taken directly to the balance sheet in the sustainable fund account without taking the same to the income and expenditure account. The Assessing Officer required the assessee to explain as to why this amount had not taken as revenue

receipts and added to the returned income of the assessee. The assessee explained that the funds were received from various Self-Help Groups with the condition that it should be repaid along with the interest accrued and therefore, the interest accrued is to Self-Help Groups and not to the assessee and hence, the same is also not voluntary contribution by the donors. But, the Assessing Officer was of the view that, the funds received from the donors some years ago and amount from funds including interest having been utilized by the assessee trust over the years for the purpose for which it was meant and as long as the funds along with interest are with the assessee and used for the specific purposes, the interest earned on such funds has to be declared as income in the income and expenditure account and the same is not exempt in terms of section 11(1)(d) of the Act. Hence, he treated this interest as revenue receipts and added to the returned income of the assessee and made addition. Aggrieved, assessee preferred an appeal before the CIT(A).

4. The CIT(A) after going through the submissions of the assessee, upheld the action of the Assessing Officer by observing in Para 6.3 which reads as under:

"6.3. All the facts of the case, Grounds of appeal, statement of facts, online submissions of the appellant and the case laws cited and the assessment order are considered. The appellant has filed online submission that the St. Joseph's Development Trust's (SJDT's) transactions differ when compared to the decision of the Hon'ble High court in the case CIT Vs Kutchi Mernon Union (Kar.) 155 ITR 51. On the one hand, the appellant has argued that SJDT has not given any loan to the beneficiaries; the beneficiaries have refunded the funds received as assistance to SJDT in trust to form a Micro Finance institution for their sustainable development; and the donor agency who have given the grants have clearly mentioned and laid down the conditions to SJDT that this fund will not form part of SJDT's Fund when it is returned. The appellant has argued that the above referred Kutchi Memon case (Supra) is not at all applicable to SJDT. On the hand, during the appellate proceedings, the appellant has also submitted that the funds received from the donors were already distributed to the SH Gs in the earlier years and received back from on the condition that it will be returned with the interest accrued and therefore, It is in the nature of loans.

The question being examined here is the taxability of the amount received in the hands of the appellant in the nature of interest or which the appellant has already claimed credit for TDS in the instant year. The appellant has claimed credit for TDS of Rs.16,45,460/- which was effected on ,total interest of Rs.1,81,83,804/- (which includes interest on SJDT sustainable fund of Rs.94,39,503/-, the amount of Rs. 94,39,503/- is not shown in the income and expenditure account of the appellant). The AO held that even if the appellant would not have claimed TDS on interest of Rs.94,39,503/-, the said interest of Rs.94,39,503/- must be included in the income and expenditure account and gross receipts. I find no reason to interfere with the AO's order on the issue. Appeal on Ground Nos. 1 to 10 on Section 11(1)(d) is dismissed."

Aggrieved, assessee is in appeal before us.

5. We have heard rival contentions and gone through facts and circumstances of this case. Before us also Ld. Counsel for

the assessee argued that, funds were received from donors were already distributed to the SHG in earlier years and received back on the condition that it will be returning with the interest accrued and therefore, it is in the nature of loan and not voluntary contribution as held by the Assessing Officer. She argued that the receipt from donors is with a specific condition and the grant received is not freely available to the trust to be utilized for charitable purpose. The Ld. Counsel for the assessee, relied on the decision of Hon'ble Delhi High Court in the case of DIT vs Society for Development Alternatives [2012] 205 Taxman 373 (Delhi) and also Hon'ble Kerala High Court in the case of CIT(E) vs Mata Amrithanandamayi Math [2017] 85 Taxmann.com 261 (Kerala). We noted that the assessee has already received a capital from donors some years ago and amount were kept as fixed deposits and earned interest. This donation received in earlier years from the donors is a property of the assessee and whenever interest earned on the same is to be taxed as income, which the Assessing Officer has rightly taxed and Id. CIT(A) has rightly confirmed the action of the Assessing Officer. As regards to the decision of Hon'ble Delhi High Court in the case of DIT vs Society for Development Alternative

(Supra), the facts are entirely distinguishable, as in the present case, the interest earned is on the fixed deposits are the capital received from various donors in earlier years, whereas, in the case before Hon'ble Delhi High Court in the case of DIT vs Society for Development Alternative (Supra), the assessee received grants from certain agencies and maximum amount of grants remains unspent at the end of the year and that the amount are remained unspent at the end of year, got spilled over to next year and was treated as unspent grant and these grants were not voluntary contributions as per section 12 of the Act. Further, as per decision of Hon'ble Kerala High Court, the fact is that the receipt of income is enumerated in clause (d) of sub-section (1) of section 11 of the Act and the income is in the form of voluntary contribution made with a specific direction that they shall form part of the corpus of the trust or institution. There is a clear direction from the donors that the interest earned shall be added to the corpus of the trust, which is missing the present case before us. Even from Bench a query was put where the assessee can show that there is a direction from the donors as and when this donation was received is with the condition that the interest earned shall added to the corpus of the trust or not.

In the absence of the same, we are of the view that the Assessing Officer has rightly added the same and CIT(A) has rightly confirmed the addition of the Assessing Officer. We affirm the order of the CIT(A) and dismiss the appeal filed by the assessee.

6. In the result, appeal filed by the assessee is dismissed.

Order pronounced in the Court on 29th December, 2023 at Chennai.

Sd/-

(मंजुनाथ. जी)

(MANJUNATHA. G)

लेखासदस्य/**Accountant Member**

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष/**Vice President**

चेन्नई / Chennai;

दिनांक / Dated : 29.12.2023

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF