

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “SMC”: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 91/DEL/2024**

**Assessment Year: 2019-20**

Pandit Nathu Ram Gaur Charitable Trust, 169, Khondli, Krishna Nagar, Delhi-110051. PAN- AABTP1621K	<u>Vs</u>	Income-tax Officer (Exemption), 2(4), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	Shri R.S. Singhvi, CA & Shri Satyajeet Goel, CA	
<b>Department represented by</b>	Shri Om Parkash, Sr. DR	
<b>Date of hearing</b>	20.03.2024	
<b>Date of pronouncement</b>	22.03.2024	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 29.12.2023, pertaining to the assessment year 2019-20. The assessee has raised following grounds of appeal:

*“1.1 That on the facts and circumstances of the case, the CIT(A) was not justified in upholding the illegal adjustments made in the Intimation passed u/s 143(1) of the Income Tax Act, 1961 without appreciating the basic fact that the Appellant is a registered trust u/s 12AA of the Income Tax Act, 1961.*

*1.2 That there being no dispute the Assessee is a registered trust and merely because there is some clerical deficiency in the ITR, the action of the CPC in treating the Appellant as an unregistered trust and denying the*

*deduction of expenses incurred while computing the taxable income is illegal and arbitrary without giving any deficiency notice.*

2. *That on the facts and circumstances of the case, the Appellant having duly applied the voluntary contributions of Rs. 8,71,320/- for the purposes of public welfare, the lower authorities were not justified in not considering expenses of Rs. 10,09,405/- as claimed by the Appellant in the ITR and supported from the Audited Accounts.*

3.1 *That the Appellant having duly disclosed the voluntary contributions u/h other than corpus, the action of the CPC in treating the same as corpus donation is factually incorrect.*

3.2 *That if any case, if the said donation is considered as corpus donation, the same should be treated as exempted income u/s 12AA of the Income Tax Act, 1961 as it is the case of a registered trust.*

4. *That the orders passed by the lower authorities are not sustainable on facts and same are bad in law.*

5. *That the appellant craves leaves to add, alter, amend, forgot any of the grounds of appeal at the time of hearing.”*

2. *Apropos to the grounds of appeal, learned counsel for the assessee has filed a brief synopsis and reiterated the contents of the same. For the sake of clarity, the submissions of the assessee are reproduced as under:*

*“1. The appellant is a charitable trust duly registered u/s. 12AA as per certificate placed in the paper book at page 35 and the same is still operative. The CIT(A) has also recorded finding to this effect vide page 12 para 5.2.*

2. *The appellant has declared particulars of income in the return as under.*

*i. Voluntary donation*

*8,71,320 (Paper book page-8)*

- ii. Expenses/application of income 10,09,405 (Paper book page-9)
- iii. Interest from saving bank account 8,008 (Paper book page-14)

3. The appellant after adjusting expenses/application of income u/s. 11, declared chargeable income only in respect of saving bank interest of Rs. 8,008/-

4. However, intimation u/s. 143(1) was issued without accepting the benefit u/s. 11 on the ground that column of the registration details was not filled in the return form. ( Paper book page-1.)

5. The CPC issued intimation without accepting claim of benefit u/s. 11 without giving any deficiency notice. The CPC has even ignored the fact that claim u/s. 11 is being accepted in the preceeding and succeeding years.

6. The CIT(A) did not take notice of the fact of the registration even contrary to finding vide page 12 para 5.2 by making reference to decision of Supreme Court in the case of Goetze (India) Ltd. 284 TR 323)

7. The appellant has raised grounds in the appeal before tribunal in support of claim of deduction u/s. 11. The following facts are relevant for your kind consideration.

(i) The appellant is a registered charitable trust u/s. 12AA. (Certificate at paper book page-35). The claim of benefit u/s. 11 has always been allowed in the preceding and succeeding years.

(ii) That issue of intimation u/s. 143(1) by CPC ignoring claim of application u/s. 11 is without giving any deficiency notice and even without taking into consideration existence and validity of registration u/s. 12AA.

(iii) That the appellate authorities have statutory power to consider any genuine claim and principle laid down in the case of Goetze (India) Ltd. is not relevant before CIT(A) or tribunal. The above legal position is supported from following judgments.

**a. CIT Vs. Sam Global Securities Ltd. 38 taxmann.com 129 (Delhi High Court)**

*Tribunal has comprehensive jurisdiction which gives discretion to allow a new ground to be raised.*

*IT department not expected to raise revenue from an ignorant assessee. AO obliged to extend relief of such an assessee.*

***b. Siva Equipment Pvt.Ltd. Vs. Assistant Commissioner of Income Tax, Circle-2. 119 taxmann.com 472 (Bombay High Court)***

*Income Tax Commissioner (Appeals) has jurisdiction to deal with additional grounds including those which were available when original return was filed.*

*[Both these judgments are after taking into consideration decision in the case of Goetze (India) Ltd.]*

8. *That the case of the appellant is fully supported from the following case laws:*

*a. Morbi Plot Jain Tap Gachh Sangh v. ACIT (ITA No. 428/Rj1/17 dated 03/06/2021) (ITAT Rajkot)*

*b. Grih Kalyan Kendra Board v. ITO (ITA No.1993/D/21 dated 05/12/2022) (ITAT Delhi)*

9. *That even without prejudice to justification of claim u/s 11, the AO or the CPC should have allowed the benefit in respect of expenses u/s. 57 of the Income Tax Act against donation receipt. As these expenses are in respect of objects and activities of the trust.”*

3. Learned DR opposed the submissions and relied on the orders of authorities below.

4. I have heard rival submissions and perused the material available on record. Learned DR could not controvert the fact that the issue in question is squarely covered in favour of the assessee by earlier decisions of the Tribunal in the cases of Morbi Plot Jain Tap Gachh Sangh v. ACIT (ITA No. 428/Rj1/17 dated

03/06/2021) (ITAT Rajkot) (supra),; and Grih Kalyan Kendra Board v. ITO (ITA No.1993/D/21 dated 05/12/2022) (ITAT Delhi). Therefore, respectfully following the binding precedent, I set aside the orders of authorities below and restore the matter to the file of AO with direction to verify the claim of the assessee and allow the same in accordance with law, treating the assessee as registered u/s 12AA of the Act. Grounds are allowed for statistical purposes.

5. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 22<sup>nd</sup> March, 2024.

**Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER**

\*MP\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR  
ITAT, NEW DELHI**