

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND  
SHRI S. R. RAGUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.: **13, 16, 17 & 18/Chny/2020**

निर्धारण वर्ष / Assessment Years: 2010-11, 2013-14, 2014-15 & 2015-16

Caruna Bal Vikas, Deputy Commissioner of  
C/o CA. John Ravindran Moses, v. Income Tax (Exemptions),  
John & Julian, Chennai Circle,  
Charatered Accountants, Chennai.  
B-403, Prince Garden,  
40, Thambusamy Road,  
Kilpauk, Chennai.

**[PAN: AAATC-3951-G]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. T.V. Muthu Abirami, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri. V. Nandakumar, CIT

सुनवाई की तारीख/Date of Hearing : 25.04.2024

घोषणा की तारीख/Date of Pronouncement : 12.06.2024

**आदेश /ORDER**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

These four appeals filed by the assessee are directed against the common order passed by the learned Commissioner of Income Tax (Appeals)-17, Chennai, dated 06.11.2019 and pertains to assessment years 2010-11, 2013-14, 2014-15 & 2015-16. Since, facts are identical and issues are common, for the sake of convenience, these

appeals were heard together and are being disposed off, by this consolidated order.

2. The sole issue raised for all the four assessment years is disallowance of administrative expenses as non-application of funds towards objects as per the restricted grant received from M/s. Compassion International (CI), Colorado Springs, Colorado 80997 USA.

3. The brief facts are that, the assessee is a society registered under the Tamilnadu Registrar of Societies Act, 1976. The assessee is also registered u/s. 12AA of the Income-tax Act, 1961 (hereinafter referred to as "the Act"). The main object of the society is development of poor and under-privileged children and their care givers all over India through projects and programs that will assist in the education, health care and social development. In furtherance of its objects, the assessee received restricted foreign contribution from M/s. Compassion International (CI), Colorado Springs, Colorado 80997 USA. The registered project grants were received in compliance with the Foreign Contribution (Regulation) Act, 2010.

**ITA No: 13/Chny/2020 for ay 2010-11:**

4. The assessee society filed its return of income for the assessment year 2010-11 on 28.09.2010, admitting taxable income of Rs. Nil. The case was selected for scrutiny under CASS and notice u/s. 143(2) of the Income-tax Act, 1961 (hereinafter referred to as "the Act") was issued on 14.09.2011 followed by notice u/s. 142(1) of the Act on 12.10.2012. The Assessing Officer had completed the assessment on 30.03.2013, after considering the submissions made by the assessee during the assessment proceedings by raising the demand of Rs.24,56,24,000/-. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Id.CIT(A).

5. The Id.CIT(A) vide its order in ITA No. 16/2013-14 dated 18.12.2013, partly allowed the appeal of the assessee revising the demand payable to Rs.23,41,49,113/-. Aggrieved by the order of the Id.CIT(A), the assessee preferred an appeal before the ITAT.

6. During the course of appellate proceedings before the Hon'ble ITAT for the assessment year 2010-11, the assessee

filed 35 volumes of paper books containing detailed information regarding 'channel partners', their activities, amounts advanced to them by the assessee, application of funds including details of beneficiaries etc. The Hon'ble ITAT in its order for assessment year 2010-11 has remitted back the issues to the Assessing Officer stating as under:

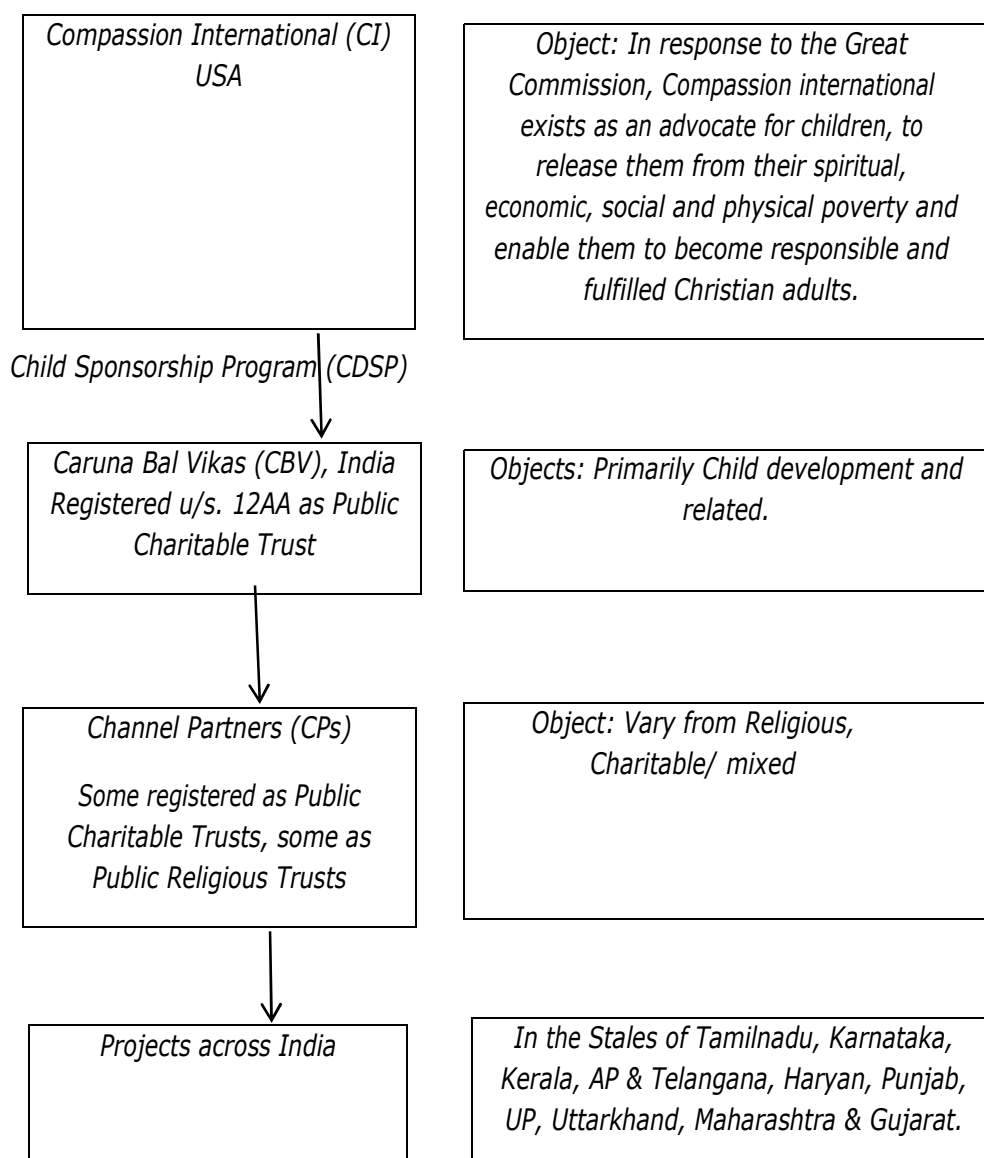
*"It is essential to examine the objects of 'Channel partners' and verify the activities performed by them. For proper adjudication of the issue, we deem it appropriate to remit the file back to the Assessing Officer to decide the issue afresh after analyzing the exhaustive information and data filed by the assessee before the Tribunal."*

7. As per the directions of the Tribunal, the appeared and furnished the relevant documents before the Assessing Officer for the purpose of verification of utilization of funds received from CI. After detailed verification of 163 channel partners and the complexity of nature of activities, accounts and voluminous transactions, the Assessing Officer felt that the detailed examination for the assessment year 2013-14, relating to the application of expenditure by the society required special audit u/s. 142(2A) of the Act was authorized after obtaining approval of the CIT(E), Chennai. The findings

of the special audit report and its implications as given in the assessment order is given below:

7. Findings of Special Audit Report and its implications

The assessee has a Memorandum of Understanding dated 06.05.2002 with M/s. Compassion International Inc. (USA) (henceforth referred to as CI). From inception, the assessee society has receipts only from CL. The expenditures are amounts paid to Channel Partners (CPs) who execute the projects funded by CI, administrative expenses and other expenses on Complimentary Intervention Programme. The relationship and activities between CI and CBV and the CPs is as below:



*Projects funded by CI to CPs through CBV are done under a "Blue Print" mandated by CI (copy of Blue Print enclosed as **Annexure - 2**). Agreements are entered between CI, CBV and CPs for every project (two such agreements are enclosed as Annexure -3).*

*On detailed analysis of the objects of CI & Blue Print, the nature of the projects funded by CI, it is the conclusion in the Special Audit that all projects funded by CI to CPs are religious in nature. The gist of the reasons for which the projects funded by CI ought to be held as religious as per the Special Audit are:*

- CI's objective is "In response to the Great Commission, Compassion International exists as an advocate for children, to release them from their spiritual, economic, social and physical poverty and enable them to become responsible and fulfilled Christian adults."*
- For this purpose, it funds projects for spiritual, cognitive, socio-economic and physical development of children in the age group of 3- 9 years (till a maximum age of 22) provided they are run by a church.*
- As part of project proposals details of socio, economic and religious compositions / conditions of the children and of the locality have to be submitted.*
- Religion of the child has to be recorded.*
- All the children, irrespective of their religion are taught only Christian gospel and detailed activities and outcomes are prescribed for achieving and reporting this under spiritual activities.*
- It is also expected that mother / caregiver confesses Jesus as saviour.*
- The project has to report acceptance of Christianity by the children / parents.*
- In case any child/ parent has any objection to learning Christian gospel or does not attend the spiritual activities for two consecutive months (except due to illness) the child would be removed from the project.*
- In short, only a church can run the project, children in age group 3 years to 9 years are chosen, irrespective of the religion of the child (and knowing the religion of the child) only Christian gospel is given compulsorily to the children and those who do not participate in it are removed from the project. Detailed reporting*

*of progress towards accepting Jesus as saviour by the beneficiaries has to be made to CL*

*7.2. The reasons for arriving at the conclusion that the projects funded by CI were towards promoting a particular religion (Christianity) by the Special Audit (relevant extracts from SAR, Monthly Project Reports of CPs and field visit reports of Special Audit Teams) are enclosed as **Annexure -4**,*

*7.3. On the relationship between the CI and the assessee society the conclusion of SAR is that:*

- CBV serves as a facilitator to CI. CBV's only activity is to act as a facilitator to CI in achieving its objectives.*
- CBV, in letter and spirit follows the foot prints of CI and adheres to all the guiding principles upon which GI functions, globally. Based on the facts, it appears that though CBV registered itself as a public charitable institution in India through it the funds were channelized towards promoting a religion/religious activities of CL*
- There is a strong bonding between CBV and GI. Apart from the nexus in funding, control, training programs in many of the channel partner agreements. names of CBV and CI were used in parallel, without any difference. (Channel partner Agreement is enclosed)*
- When CI terminated funding to CBV during May 2014, CBV India did not take any efforts to look out for alternative donors to fund the ongoing projects. Rather, its understood that CBV India was left dormant and a new vehicle (i.e. Adhane Management Consultancy Private Limited) was floated to avail funding from CI and it monitors the work of channel partners and funding of channel partners. Majority of employees of CBV now employed in Adhane Management Consultancy Private Limited.*

**(Page No. 39 of SAR)**

*To sum up, the SAR has concluded that*

- (i) Objects of CI are religious and projects of CPs funded by CI through the assessee society are for religious purposes.*
- (ii) The assessee society has acted as a facilitator in the funding of the projects for religious purposes by CI to the CPs."*

8. Based on the special audit report obtained for the assessment year 2013-14, since activities of the assessee's society are the same for the assessment year 2010-11 also, as it is following the same blue print and the assessee's society is the facilitator of CI only. The assessee was show caused as to why the benefit of section 11 to 13 of the Act cannot be denied for assessment year 2010-11 also. In response to the notice and further hearings, the assessee submitted relevant details and various documents in relation to the activities carried out by the assessee for the tied up grants received from CI. The assessee also cited the Hon'ble Tribunal 'C' Bench in ITA No. 376/Chny/2014 dated 05.02.2015 for assessment year 2010-11 and prayed for giving effect to the directions regarding application of the provisions of section 13(1)(b) of the Act, based on the facts and circumstances of the special audit. After considering the submissions of the assessee and relevant documents and special audit report, the Assessing Officer considered the funds utilized as application of funds by the assessee is detailed below:

*"11. For the detailed reasons well supported by evidences brought out in the SAR, it is hereby held that the objects of CI are religious and that the projects of CI funded through the assessee society are for religious purposes.*

*12. The submissions of the assessee society that the projects of CPs funded by CI are in the nature of tied up grants as far as the assessee society is concerned are in consonance with the findings of the SAR and are supported by the judicial decisions cited by the assessee society, Accordingly, the amount of Rs.72,89,46,618/- funded by CI for projects of CPs is treated as tied up grants and not included in the income of the assessee society"*

9. Further, the Assessing Officer having verified the receipts and payments accounts along with audit report for the assessment year 2010-11 found that certain other expenditure in the nature of administrative and other expenses have been spent by the assessee out of the tied up grant received from CI and asked to furnish details for the same. On perusal of records and details furnished by the assessee, the Assessing Officer has disallowed the administrative expenses as non-application of funds towards objects of tied up grants received from CI and passed the assessment order as detailed below:

**"Administrative Expenses and the Other Expenses (other than Child Development Support):**

*13.1. The Receipts and Payments account enclosed to the Auditors Report dated 08.06.2010 shows receipts of grants of Rs.83,08,14,947/- and payments for the year ended 31 March 2010 as under;;*

<b>Payments</b>	<b>31.03.2010 Amount in Rs.</b>
<i>Child Development Support</i>	<i>72,89,46,618</i>
<i>Direct programmes</i>	<i>2,01,40,722</i>
<i>Sponsored military Division</i>	<i>7,12,3251</i>

<i>Programme Division</i>	<i>2,91,53,906</i>
<i>Leadership Programme</i>	<i>15,18,538</i>
<i>Complementary Intervention</i>	<i>5,49,547</i>
<i>Child Survival Programme</i>	<i>6,01,458</i>
<i>Field office Automation Project</i>	<i>20,35,781</i>
<i>Administration I Finance</i>	<i>2,53,04,402</i>
<i>Bangalore area Administration</i>	<i>74,54,323</i>
<i>Capital Expenditure</i>	<i>46,79,690</i>
<i>Deposits and Advance</i>	<i>1,81,591</i>
<i>Closing Balance</i>	<i>31,25,122</i>
<b>Total</b>	<b>83,08,14,947</b>

13.2. The assessee society was asked to explain the nature of grants for the expenditure excluding Child Development Support of Rs. 72,89,46,618/- and the nature of expenses vis-a-vis its objects.

13.3. It is submitted by the assessee that the grants were received from CI only and that amount received from CI and spent on administrative expenses and other expenses by the assessee society is also in the nature of tied-up grants. The assessee was asked to submit any original documents and any contemporaneous evidences to prove its submissions that the amount spent towards administrative expenses and other expenses by the assessee society was received as tied up grants from CL

13.4. The heads of expenditure in the audited Receipts and Payments Account filed with the return (**Annexure - 1**) included Salaries & Allowances, Sponsor/visitor, postage and shipping staff training, travelling & Conveyance, contract labour, telephone, medical reimbursement, books and periodicals, staff welfare/Hospitality, seminars, leadership development programme, Hiring of equipments, internet service, Professional and legal fee, office maintenance and equipments, rent for office space, utilities, vehicle maintenance, computer accessories etc.

The assessee was requested to explain. its stand that the expenditures are met out of tied up grants from CI with original documents and contemporaneous evidence to substantiate.

13.5 In response, the assessee has filed fund transfer communication documents confirming receipt of all transfers made by CI and certain documents for Direct Medical and Surgery

(Rs. 21,41,053/-) and Malaria Intervention Program (Rs. 19,19,210/-). It was submitted by Mr. Allen Rajadas, Authorised Signatory and the Authorised Representatives Shri. John Ravindran, FCA and Dr. Manoj Fogla that the assessee has no other evidence/documents contemporaneous or otherwise. It was submitted that consequent to stoppage of activities of the assessee society, the records and documents were moved to a \ smaller 300 Sq. ft. location where all the documents / records could not be stored. It was submitted that consequent to the rains and floods at Chennai in November and December 2015, the computer systems got corrected and entire correspondence and evidence which was available in the form of e-mails and soft copies was irretrievably lost. It was submitted that based on the evidence produced, the amounts received from CI and spent towards Administrative and Other Expenses should be treated as tied-up grants.

13.6. At the outset, the heads of expenditure for which the assessee claims to have received grants from CI as tied-up grants do not match with the heads of expenditure as per audited accounts filed by the assessee society. No explanation or reconciliation for this difference has been provided by the assessee even when it was specifically asked for.

13.7. The submissions of the assessee that the payments made by CI to the assessee towards Administrative and Other Expenses flow from the Memorandum of Understanding and the agreements signed between CI, assessee and CPs and hence should be treated as tied-up grants is also not tenable as there is no clause or provision explicitly or implicitly in any of these documents regarding the amounts paid by CI towards Administrative Expenses and Other Expenses.

13.8. The explanation of the assessee that entire Administrative Expenses and Other Expenses are from tied-up grants from CI is therefore not acceptable.

13.9. In the details filed on 02.11.2016, the heads of expenditure for Direct Medical and Surgery (Rs.21,41,053/-) and Malaria Intervention Programme (Rs.19,19,210/-) in the Schedule - H to the audited Receipts and Payments Account are matching. For these expenses, the assessee has provided documentary evidence that they constitute amounts received from CI in the form of tied-up grants. Considering the evidence furnished, these expenses amounting to Rs.40,60,263/- (Rs. 21,41,053/- + Rs19,19,210/-) are treated as expenditure made out of tied-up grants from CL

13.10. It is submitted by the assessee that the expenditure under the head Leadership Programme of Rs. 15, 18,538/- was from the grant sent by CI "to be used towards children who are part of the Leadership Development Programme. The grant was used for children's education The program is designed to educate through higher education, equip and train them to be our future leaders to be an influence for their families, community, society and nation at large".

13.11. Prima facie this explanation of the assessee does not match with the expenditure under leadership Programme in **Schedule -K** to the audited **Receipts and Payments Account** given below:

<b>Particulars</b>	<b>31.03.2013 Amount (Rs.)</b>
Salaries & Allowances	8,80,012
Staff Medical	13,642
Staff Training & Seminars	19,141
Staff Welfare/Hospitality	67,342
Bank charges	11,442
Internet Services/Computer	500
Printing & Stationery	70,651
Photographs	7650
Books & Periodicals	5760
Postage &	35642
Travelling & Conveyance	273593
Telephone/Fax	156 10
Contract	117553
<b>TOTAL</b>	<b>15,18,538</b>

13.12. Since the explanation of the assessee does not agree with its own audited accounts furnished with the return of income, the claim of the assessee that the expenditure of Rs. 15,18,538- is met out of tied-up grants from CI is not accepted. The document furnished by the assessee as evidence in support of its claim is on Budget Targets and do not in any way constitute vidence that the expenses were made out of tied-up grants.

13.13. For all the other expenses under Administrative and Other Expenses (other than Child Development Support), the assessee has not given any explanation or evidence, In fact it has stated that it has no further explanation or evidence on this issue.

13.14. Section 12(1) of the Income-tax Act, 1961, is as under:

***Income of trusts or institutions from contributions.***

*Any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.*

*Section 11(1) of the Income-tax Act, 1961, is as under:*

***Income from property held for charitable or religious purposes.***

*11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income-*

*(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of [fifteen] per cent of the income from such property;*

*13.15. The Receipts of the assessee, other than tied-up grants, therefore constitute its income u/s. 11(1) r.w.s. 12(1) of the Income-tax Act, 1961.*

*13.16. The assessee has to apply its income to its objects upto 85% of income or accumulate for its objects to get exemption u/s. 11(1)(a) of the I.T. Act. As discussed in the preceding paragraphs, the only activity of the assessee society has been to facilitate the projects of CI to CPs in India. As held earlier, the projects of CI in India are for religious purposes.*

*13.7 The assessee society has also not performed any activities as per its objects. Application for its own objects being Nil, the expenditure on administrative expenses also cannot be considered as application u/s. 11(1)(a). In effect, the application towards its own objects by the assessee society is Nil.*

*14. Based on the discussions made above, the Taxable income of the assessee is arrived as under:*

(+)/ (-)	Particulars	Amount (in Rs)	Amount (in Rs.)
	Gross Receipt: Grant	82,56,86,778	
	(ii) Bank Interest	2,09,280	
	(iii) Sale of old assets	24,000	
	(iv) Refund - other advances	8,24,881	
	- Child Development Support Fund	3,26,199	
			83,08,14,947
Less:	Amount treated as Tied up Grant para (12)	72,89,46,618	
	Amount treated as Tied up Grant para (13.12)	40,60,263	73,30,06,881
	Balance		9,78,08,066
	85% there of	8,31,36,856	
	Application for charitable purposes as discussed above -para (18.20)	0	
	Taxable income		8,31,36,856
	Income-tax thereon	2,49,41,057	
	Add: Education Cess @ 3%	7,48,232	
	Total Income tax		2,56,89,289
	Add: Interest u/s. 234B		92,48,143
	<b>Total tax payable</b>		<b>3,49,37,432</b>

Aggrieved by the impugned order of the Assessing Officer, the assessee preferred an appeal before the Id. CIT(A).

10. During the first appellate proceedings, the assessee furnished the details along with the written submissions by raising the following grounds of appeal:

*"01. The order is bad In law to the extent it has made additions beyond the directions of the Hon'ble ITAT. The AO cannot go beyond the issues directed by the ITAT ir case set aside with specific directions.*

02. That the AO failed to understand that a portion of restricted project grants i.e. Rs. 8,31,36,856/- out of total Rs.83,08,14,947/- is a legal obligation and any allowance or disallowance of project grant does not result in taxable income, as legal obligation do not form a part of income.

03. The AO failed to understand that the expenditures incurred by a mother NGO is a permissible application in the light of the Supreme Court decision in *Aditanar Educational Institution v. Additional Commissioner of Income-tax (1997) 90 Taxman 528 (SC)*.

04. The AO has erred by disallowing the expenditures merely on mismatch of some consolidated accounting heads.

05. That the order of the AO is legally unsustainable as the AO cannot challenge the primary activities of the assessee based on which the charitable status was granted.

06. That the order of the AO Is legally unsustainable, as the AO cannot challenge preexisting facts of several years in the absence of any new finding even though *res judicata* does not apply.

07. That the appellant craves leave to add to, alter, amend, modify, substitute, delete and/or rescind all or any of the **GROUND OF APPEAL** on or before the final hearing, if necessity so arises."

11. The Id.CIT(A), after hearing the assessee and considering the submissions made framed the following two questions and upheld the order of the Assessing Officer as detailed below:

"7.2. There are two issues to be decided in this appeal - (i) Whether the balance receipts (Rs.9,78,08,066/-) are also tied-up grants? (ii) If the balance receipts (Rs.9,78,08,066/-) are not tied-up grants, then what was the amount spent towards charitable activities out of these balance receipts?

7.3. If the balance receipts (Rs.9,78,08,066/-) are also tied-up grants, then they will not form part of the income.

In the written submission, the appellant stated that the entire grant sanctioned by Compassion International was tied-up

*grant and filed a copy of the confirmation letter dated 11/11/2016 from Compassion International addressed to The Deputy Commissioner of Income Tax.*

*However, as stated above, from the audited accounts of the assessee, the Assessing Officer found that the assessee did not spend the balance receipts for the specific purposes for which it claimed as tagged.*

*During the appeal proceedings, the assessee did not furnish evidence to establish that the balance receipts (Rs.9,78,08,066/-) were utilized for the purposes for which it claimed as tagged.*

*Hence, treating the balance receipts (Rs.9,78,08,066/-) as nontagged and Including the same in the income of the assessee, is upheld.*

*7.4. As per section 11(1)(a), out of the balance receipts (Rs.9,78,08,066/-) included in the income of the assessee, the amount applied for charitable purposes in India is exempt.*

*In the Assessment Order, the Assessing Officer gave finding that the assessee society did not perform any activities as per Its objects.*

*During the appeal, proceedings, the assessee did not furnish any details of the amount applied towards charitable purposes out of the balance receipts (Rs.9,78,08,066/-) and the evidences thereof. Hence the decision of the Assessing Officer to consider the application out of the balance receipts of Rs.9,78,08,066/- as Nil, is upheld.*

*8. In result, the appeal of the assessee is dismissed."*

Aggrieved by the impugned order of the Id.CIT(A), the assessee preferred an appeal before us.

12. The Ld. Counsel for the assessee vehemently argued that the Caruna Bal Vikas is a society registered u/s. 12A of the Act and carried on the activities based on the objects of the trust.

The assessee had entered into a Memorandum of Understanding with Compassion International Inc, USA to facilitate the extension of programs, activities, commitments and ministry developed by CI-USA through the partners, with the following duties and responsibilities.

*"5 Such grants sanctions, minority benefits, etc., shall not be used other than the purposes for which it was granted either directly or indirectly.*

*6. CBV gives an undertaking that they shall not commercialize the funds that is granted by CI-USA and that it shall be utilized strictly in accordance with the purpose/motive of CBV.*

*7. CBV gives an undertaking that all assets, movable or immovable acquired through funds made available by CI-USA shall be used exclusively for the promotion of CI's ministry. Any other use or disposal of these assets will be undertaken only with prior written permission from CI-USA and as per the law that may be in force in India.*

*8. The appointment and or termination of services of Director/Executive Director (CEO) for CBV shall be the responsibility of CI-USA.*

*9. The Director so appointed will have the power to appoint and engage additional staff, train them and manage their performance in accordance with the ministry principles and operational procedures adopted from time to time by CI-USA.*

*10. CBV gives an undertaking to CI-USA that the Director and staff appointed to manage the CI child ministry in India will be allowed to operate freely within the framework' of the ministry principles an operational procedures,*

*11. It shall be lawful for CI-USA to re-nominate or appoint any person in the place of any officer(s) who is/are removed/demitted from the office of Directorship.*

*12. It shall be lawful for CBV Director to appoint any staff/staffs and to disburse the salary to commensurate with the experience and involvement.*

*13. It shall be lawful for CBV to delegate all day to day operations including hiring and firing of staff to the Director."*

The Caruna Bal Vikas has received a tied up grant from CI on year-on-year basis and the same has been utilized for the purposes which have been specified and pre-defined by the donor after appointing the channel partners in India. Incidentally, the society has incurred administrative and other expenses for implementing the objects of the CI. In support of the expenditure made towards objects of the CI out of the tied up grants, the society has obtained confirmation from the CI which includes administrative expenditure also as part of the funds transferred.

13. The Ld. Counsel for the assessee also stated that the scrutiny assessments of the assessee have been carried out by the Assessing Officer for earlier assessment years 2006-07, 2007-08 & 2009-10, wherein the Assessing Officer had accepted the administrative expenditures as an application of income from the tied up grants received and passed the assessment orders. Further, the Ld. Counsel for the assessee stated that the 'Principles of consistency has to be followed when the facts are same for each assessment year' which has been decided in the following cases (a) Radhasoami Satsang v CIT 193 ITR 321, (b) Sunil Kumar Ganeriwal vs DCIT, 16

taxmann.com 311 (Mum) and (c) CIT vs State Urban Development Society, [2011] 11 taxmann.com 458 (P&H).

14. The Ld. Counsel for the assessee also relied on various judicial precedents which are in favour of the assessee:

- *Exemption u/s. 11 is applicable even when the assessee is acting only as a facilitator in carrying out charitable activities - Aditanar Educational Institution 118 ITR 235*
- *Trust for charitable purpose would include trust for advancement of religion - Fazlul Rabbi Pradhan v State of West Bengal 1965 AIR 1722 and CIT v Barkate Saifiyah Society 213 ITR492*
- *Exemption u/s.11 is applicable even when the assessee applies its income for religious purpos /disallowance u/s.13(1)(b) is applicable only if the charitable activities are carried out in a discriminatory manner.*
  - *CIT v Arulmigu Kamatchi Amman Trust [2012] 20 taxmann.com 55*
  - *Pandit Ram Chandra Shukla v Shree Mahadeoji Mahabirji and Hazrat Ali [1970] AIR 458*
  - *Society of Presentation Sisters v ITO [2009] 121 ITD 422 (Cochin)*
  - *CGT v H.H.Sir Shahaji the Chhatrapati Maharaja Saheb of Kohlapur 58 ITR 140*
  - *Secretary Ochira Temple Administration Board v State of Kerala 171 ITR 429*
  - *CIT v Social Service Centre 250 ITR 39*
  - *Umaid Charitable Trust v UoI 307 ITR 226*
  - *Calicut Islamic Cultural Society v ACIT [2009] 28 SOT 148*
  - *Sri Ramakrishna Sewa Ashrama v CIT 252 ITR 171*
- *Administration expenses of the assessee has to be treated as application of income.- CIT v Birla Janahit Trust 208 ITR 372*

15. The Ld. Counsel for the assessee further prayed for quashing the orders of the lower authorities by allowing the

claim of administrative expenses as application of funds for the purpose of section 11 of the Act.

16. When confronted with the Id.DR, the Id.DR relied on the orders of the Assessing Officer and that of the Id.CIT(A) and prayed to sustain the disallowance of administrative expenses as non-application of funds for the objects. Further, the Id.DR also stated that these disallowances has been made based on the special audit report conducted u/s. 142(2A) of the Act and hence, the disallowances are to be upheld.

17. We have heard the rival contentions and gone through the facts and circumstances of the case. It is an admitted fact that the Caruna Bal Vikas is a registered society in the state of Tamilnadu and also registered u/s. 12AA of the Act and carrying on the objects as a public charitable trust. During the above said assessment years the trust had been received the tied up grants from the Compassion International (CI), USA to utilize such funds towards the objects as specified in the Memorandum of Understanding (MoU) dated 06.05.2002 entered between assessee and the CI. Accordingly, the assessee has spent the tied up grants towards the specified objects by appointing various channel partners by way of

transferring the funds received. Incidentally, the assessee has incurred certain expenditures towards administrative and other expenses for identifying right channel partners and their activities and for monitoring such channel partners for having utilized the grants transferred towards the activities/objects as mentioned in the MoU.

18. The Assessing Officer during the assessment proceedings has accepted the complete books of accounts and not doubted the genuineness of the expenditure spent towards administrative expenses, which has been shown in the income and expenditure account of the assessee. These expenditures have been spent by the assessee which are covered in the MoU entered between the assessee and the donor CI. In support of the claim of the expenditure towards administrative and other expenses, the assessee had also submitted relevant 'certificate' from CI for having confirmation that these expenses were also covered while sanctioning and releasing of tied up grants in the respective assessment years before the Assessing Officer during the assessment proceedings. Further, on verification of certificates issued by the donor CI, these administrative expenses have also been considered as specific

and predefined purposes while granting the tied up grants to the assessee. On perusal of the nature of expenditure under the administrative and other expenses spent by the assessee, it is noted that these expenditures are in accordance with MoU for implementation of objects of the donor CI. The nature of expenses are as under:

<b>Payments</b>	<b>31.03.2010 Amount in Rs.</b>
<i>Direct programmes</i>	<i>2,01,40,722</i>
<i>Sponsored military Division</i>	<i>7,12,3251</i>
<i>Programme Division</i>	<i>2,91,53,906</i>
<i>Leadership Programme</i>	<i>15,18,538</i>
<i>Complementary Intervention</i>	<i>5,49,547</i>
<i>Child Survival Programme</i>	<i>6,01,458</i>
<i>Field office Automation Project</i>	<i>20,35,781</i>
<i>Administration I Finance</i>	<i>2,53,04,402</i>
<i>Bangalore area Administration</i>	<i>74,54,323</i>
<i>Capital Expenditure</i>	<i>46,79,690</i>
<i>Deposits and Advance</i>	<i>1,81,591</i>
<i>Closing Balance</i>	<i>31,25,122</i>
<b>Total</b>	<b>10,18,68,329</b>

and stated that the above expenditure are squarely relatable to the main objects of child development and support programs as stated by the CI.

19. It is further noted that the assessee has filed relevant certificate from the CI as a contemporaneous evidences to

prove its submissions that all the amount spent towards administrative expenses and other expenses by the society was received as tied up grants from CI.

20. The assessee also relied on the decision of Hon'ble High Court of Calcutta in the case of CIT vs Birla Janahit Trust [1994] 73 Taxman 465 (Cal), wherein it has held as under:

*"11. In our view, therefore, the expenditure on salaries and miscellaneous expenses for the purpose of carrying out the objects and purposes of the trust must be considered as application for charitable purposes. However, in this case the quantum of the expenditure for carrying out the objects and purposes of the trust and the expenditure made to earn the income had not been separately allocated or determined. We, therefore, answer the second question by saying that the Tribunal was right in holding that the assessee will be entitled to the benefit of the expenditure made on salaries and miscellaneous expenses for the purpose of carrying out the objects and purposes of the trust only."*

21. It is noted that the assessee also relied on the judgments of Radhasoami Satsang v CIT (Supra), Sunil Kumar Ganeriwal vs DCIT (Supra) and CIT vs State Urban Development Society (Supra) wherein the 'principles of consistency has to be followed when the facts are same for each assessment year of the same assessee'. In the present case, it is submitted by the Ld. Counsel for the assessee that the assessment orders for the assessment years 2006-07, 2007-08 & 2009-10 have already been passed by the Assessing Officer by accepting the

administrative expenditures as application of funds as per provisions of section 11 of the Act and has concluded the assessment orders. Therefore, respectfully following the above decisions the claim of administrative expenses as application of income of the assessee has to be considered.

22. After going through the facts and circumstances of the case and also the judicial decision relied as stated in the case of CIT vs Birla Janahit Trust (Supra), we are of the considered view that the administrative expenses claimed by the assessee society is in the regular course of activities to achieve the objects of the society and also in line with the objects to be carried out as per the Memorandum of Understanding entered with CI in comparison with the tied up grants received from CI, the administrative expenditure spent by the assessee society is reasonable and needs to be treated as amount spent as application of income towards the objects of the society. In light of the above, we do not find infirmity in the orders of the lower authorities for disallowing the administrative expense as not an application of income towards objects of the society and hence, we direct the Assessing Officer to treat the

administrative expenses as application of income and compute the income of the society accordingly.

**ITA Nos: 16, 17 & 18/Chny/2020:**

23. We find that the facts in the present three years are identical to the facts considered by us for assessment year 2010-11 in ITA No. 13/Chny/2020. The reasons given by us in preceding Para no. 16 to 22 for assessment year 2010-11, shall *mutandis mutatis* apply to these appeals as well. Therefore, for similar reasons, we direct the Assessing Officer to treat the administrative expenses as application of income and compute the income of the society accordingly.

24. In the results, appeals filed by the assessee for assessment years 2010-11, 2013-14, 2014-15 & 2015-16 are allowed.

Order pronounced in the court on 12<sup>th</sup> June, 2024 at Chennai.

**Sd/-**  
**(महावीर सिंह )**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /Vice President

**Sd/-**  
**(एस. आर. रघुनाथा)**  
**(S. R. RAGUNATHA)**  
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 12<sup>th</sup> June, 2024

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF