आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"B"-Bench" JAIPUR

श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य एवं श्री नरेन्द कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RATHOD KAMLESH JAYANTBHAI, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA. No. 328 & 329/JPR/2023
निर्धारण वर्ष/Assessment Year : 2015-16 & 2016-17

M/s Jyoti Vidyapeeth Trust 143,Gomex Defence Colony, Vaishali Nagar, Jaipur.	बनाम Vs.	Circle (Exemption), Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAATJ4910C		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assesseeby : Shri P. C. Parwal (C.A.)
राजस्व की ओर से/Revenue by: Shri Anoop Singh (Addl. CIT)

सुनवाई की तारीख/Date of Hearing :18/06/2024
उदघोषणा की तारीख/Date of Pronouncement: 20/06/2024

आदेश/ORDER

PER BENCH:

This common judgment is to dispose of the above captioned two appeals which involve common points, for adjudication, and which have been argued by the Authorized Representative of the Assessee and Learned DR for the Department, together.

ITA No. 328/JPR/2023

2. Assessee claims itself to be a charitable trust. It was got registered u/s 12AA of the Income Tax Act, 1961 (hereinafter referred to as the "Act"), the

main object of the said trust-assessee is stated to be to increase the level of girl education in rural India. To achieve said object, the assessee has been managing a university for women, under the and style "Jyoti Vidyapeeth Women University".

3. The first mentioned appeal pertains to the assessment year 2015-16.Assessee has challenged order dated 28.04.2023, passed by Learned CIT(A). Vide impugned order, Learned CIT(A) partly allowed the appeal filed by the assessee. The assessee had raised its grievance before Learned CIT(A) challenging order dated 29.10.2021 passed by Learned Assessing Officer .

4. On 19.08.2016, the assessee filed Return of income declaring the total income as 'Nil', but, case of the assessee was selected for limited scrutiny through CASS. Thereupon, notice u/s 143(2) of the Act was issued and served upon the assessee on 26.07.2016.

On completion of proceedings u/s 143(3) of the Act, initially, vide assessment order dated 17.11.2017, total income of the assessee was assessed at Rs. 5,77,58,980/-, while making following three additions in the manner as:-

> *"i. Revenue expenditure as per income and expenditure account surplus Rs. 3,52,40,552/-.*
> *ii. Addition on account of excess salary paid- Rs. 27,83,520/-*

iii. Addition due to disallowance of capital expenditure- Rs. 1,97,34,909/-."

Feeling aggrieved by said assessment, the assessee filed appeal. Learned CIT(A) partly allowed that appeal vide order dated 05.11.2019.

5. Since, the assessee and the Department, both felt dissatisfied with the order dated 05.11.2019, they filed respective appeal before this Appellate Tribunal.

Those appeals were by way of first round of litigation here.

The Appellate Tribunal deleted the addition, vide order dated 09.09.2020, accepting the additions made due to disallowance made on account of excess salary payment amounting to Rs. 25,60,000/-made to Dr. Pankaj Garg and Smt. Vidushi Garg.

It may be mentioned here that while disposing of those appeals, this Appellate Tribunal restored the matter to the files of the Learned Assessing Officer issuing directions in the manner as under:-

"Be that as it may, since the order of the AO is set aside proceedings for the A.Y. 2014-15 was passed in pursuance to the direction of ITAT for A. Y. 2014- 15 wherein salary paid to Hema Choudhary, Deepak Rastogi and Meghna Singhal has been accepted as reasonable. Therefore, we set aside the order of the Id. CIT(A) for the year under consideration and delete the disallowance of salary paid

to these persons i.e. Hema Choudhary, Deepak Rastogi and Meghna Singhal.
So far as the salary paid in respect of Dr. Pankaj Garg and Smt. Vidushi Garg are concerned, we restore the matter back to the record of the AO for afresh adjudication after proper verification and examination of all the relevant facts. Thus, the assessee is directed to produce all the relevant facts to establish the ***actual rendering of services by these two persons and also all the rules applicable in respect of the qualification and appointment of persons on such post****. Thus the appeal of the assessee is partly allowed for statistical purposes."*

6. That is how, the matter once again reached Learned Assessing Officer.

Learned Assessing Officer issued notice dated 22.09.2021 and a questionnaire, u/s 142(1) of the Act. Vide said notice, the assessee was called upon to explain as to why salary and allowances paid in respect of Dr. Pankaj Garg and Smt. Vidushi Garg should not be disallowed in view of provisions of section 13 of the Act.

At the same time, assessee was also asked to furnish details of all persons to whom the assessee had paid salary, more than Rs. 5,00,000/- ; to furnish information regarding qualification of such persons and the duties assigned to them'. Copy of their appointment letter was also sought for.

7. Assessee submitted reply dated 29.09.2021 and 14.10.2021, and also written submissions.

8. It may be mentioned here that in the assessment order, Learned Assessing Officer observed that the assessee did not submit correct details regarding persons who were being paid salary more than Rs. 5,00,000/-, the reason being that the assessee furnished requisite details only in respect of following persons, and omitted to furnish information that even Sh. Amit Kumar Joshi and Shri Rajendra Kumar Patni were also being paid salary exceeding Rs. 5,00,000/-.

S. No.	*Name*	*Amount (INR)*
1.	*Mrs. Vidushi Garg*	*36,00,000*
2.	*Late Shri (Dr. Pankaj Garg*	*24,00,000*
3.	*Hema Chaudhary*	*5,87,920*
4.	*Deepti Rastogi*	*5,75,600*
5.	*Meghna Singhal*	*5,79,939*

9. Having considered the submissions put forth on behalf of the assessee and the material made available, Learned Assessing Officer computed the total income of the assessee as under:-

"Excess of income over expenditure	*Rs.3,52,40,552/-*
Add: *Excess salary*	*Rs. 25,60,000/-*
Add: *Capital expenditure*	*Rs. 1,97,34,909/-*
Total assessed Income	***Rs. 5,75,35,461/-"***

10. As noticed above, the assessee felt aggrieved by the assessment order passed on 29.10.2021 (after the matter was restored back by this Appellate Tribunal), and accordingly, it filed appeal before Learned CIT(A).

11. Vide impugned order, Learned CIT(A) considered the grounds raised by the assessee-appellant.

Learned CIT(A) observed that Learned AO did not follow the directions issued by this Appellate Tribunal, at the time of disposal of appeals which had came up in the first round of litigation.

Learned CIT(A) also observed that the AO denied entire exemption u/s 11 of the Act on the ground that the trustees, namely, Dr. Pankaj Garg and Smt. Vidushi Garg were paid excessive salary.

As regards disallowance of capital expenditure by Learned Assessing Officer, Learned CIT(A) allowed the ground raised by the assessee-appellant and held that claim of exemption u/s 11 of the Act would be denied only proportionate i.e. having regard to the excess salary paid, and not the entire amount, and further that the computation was to be done in respect of trust, not treating it as 'AOP', thereby denying the benefit of capital expenditure.

12. As regards ground pertaining to disallowance of salary paid to Dr. Pankaj Garg and Smt. Vidushi Garg, Learned CIT(A) considered the

submissions put forth on behalf of the assessee and observed that the services rendered by them could not be compared with that of Dr. Rajendra Kumar Patni irrespective of higher educational qualification, particularly when Dr. Rejendra Kumar Patni was having limited responsibilities as an employee, whereas Dr. Pankaj Garg and Smt. Vidushi Garg were performing administrative duties and dealing with managing of the trust/university.

13. Learned CIT(A) further observed that the trustees could not benefit in any manner, when the assessee-trust was a charitable organization, and that the assessee had incorrectly claimed in its submission dated 22.03.2023 that there are regulations applicable for determining salary of teaching facilities.

Learned CIT(A) also observed that the assessee was not abiding by the relevant regulations prepared by Rajasthan Government as regards payment of salary to the teaching staff.

14. Ultimately, Learned CIT(A) was of the considered opinion that increase in the salary of Dr. Pankaj Garg and Smt. Vidushi Garg by 10% would be reasonable i.e. salary of Rs. 16,50,000/- in case of Dr. Pankaj Garg and salary of Rs. 25,08,000/- in case of Smt. Vidushi Garg.

In other words, Learned CIT(A) held that salary of Dr. Pankaj Garg was in excess to the tune of Rs. 4,05,000/-, whereas, in case of Smt. Vidushi Garg, it was in excess to the tune of Rs. 6,52,000/-.

Accordingly, the total disallowance on this point was restricted to Rs. 11,02,000/-.

15. That is how, the appeal was partly allowed by Learned CIT(A).

16. Since, the assessee is still feeling aggrieved, it has come up in appeal before this Appellate Tribunal.

17. Arguments heard. File perused.

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18. The second mentioned appeal pertains to the assessment year 2016-

19. The assessee has challenged order dated 28.04.2023 passed by Learned CIT(A).

Vide impugned order, Learned CIT(A) has partly allowed the appeal filed by the assessee. The assessee had challenged before Learned CIT(A) order dated 31.10.2021 passed by Learned Assessing Officer .

20. As regards the assessment order, it may be mentioned that on 30.07.2016, the assessee had filed Return of income declaring the total income as ‘Nil’. Case of the assessee was selected for complete scrutiny

through CASS. Thereupon, notice u/s 143(2) of the Act was issued and served upon the assessee on 07.07.2017.

Vide order dated 06.02.2018, on completion of proceeding u/s 143(3) of the Act, total income of the assessee was assessed at Rs. 9,63,62,000/-, while making following three additions :-

> *"i. Revenue expenditure as per income and expenditure account surplus Rs. 3,54,42,035/-.*
> *ii. Addition on account of excess salary paid- Rs. 28,95,000/-*
> *iii. Addition due to disallowance of capital expenditure- Rs. 5,80,24,965/-"*

Feeling aggrieved by the above said assessment, the assessee filed appeal. Learned CIT(A) partly allowed that appeal vide order dated 28.04.2023.

21. This is how, by way of first round of litigation, both, the assessee and the department, file respective appeal before this Appellate Tribunal.

The Appellate Tribunal disposed of the appeals, deleted the addition, vide common order dated 09.09.2020.

22. That is how,once again, the matter came up before Learned Assessing Officer.

Learned Assessing Officer issued notice dated 22.09.2021 and a questionnaire, u/s 142(1) of the Act. Vide said notice, the assessee was

called upon to explain as to why salary and allowances paid in respect of Dr. Pankaj Garg and Smt. Vidushi Garg should not be disallowed in view of provisions section 13 of the Act.

At the same time, assessee was also asked to furnish details of all persons to whom the assesseehad paid salary exceeding Rs. 5,00,000/-; to furnish information regarding qualification of such persons and the duties assigned to them. Copy of their appointment letter was also sought for.

23. Assessee submitted reply dated 21.10.2021

24. Learned Assessing Officer took into consideration the version put forth by the assessee and the other material made available to him.

25. Having considered the submission put forth on behalf of the assessee and the material made available, Learned Assessing Officer computed the total income of the assessee as under:-

"Excess of income over expenditure	*Rs.3,54,42,035/-*
Add: *Excess salary*	*Rs. 28,95,000/-*
Add: *Capital expenditure*	*Rs. 5,80,24,965/-*
Total assessed Income	***Rs. 9,63,62,000/-"***

26. As noticed above, the assessee was aggrieved by the assessment order passed on 31.10.2021, and accordingly, it filed appeal before Learned CIT(A).

27. Vide impugned order, Learned CIT(A) considered the grounds raised by the assessee-appellant.

Learned CIT(A) was of the view that Learned AO did not follow the directions issued by this Appellate Tribunal, and denied entire exemption u/s 11 of the Act on the ground that the trustees namely Dr. Pankaj Garg and Smt. Vidushi Garg were paid excessive salary.

Accordingly, it was held that the computation had to be done as a trust and not as AOP, and as such, the appellant could not be denied benefit of capital expenditure.

It was further held that claim of exemption u/s 11 of the Act would be denied only proportionate i.e. having regard to the excess salary paid, and not the entire amount.

28. As regards ground pertaining to disallowance of salary paid to Dr. Pankaj Garg and Smt. Vidushi Garg, Learned CIT(A), considered the submissions put forth on behalf of the assessee and observed that the services rendered by them could not be compared with that of Dr. Rajendra Kumar Patni irrespective of higher educational qualification, particularly when Dr. Rejendra Kumar Patni was having limited responsibilities as an employee, whereas Dr. Pankaj Garg and Smt. Vidushi Garg were performing administrative duties and also managing the trust/university.

29. Learned CIT(A) also considered that there was huge increase in salaries of the abovesaid two trustees as regards financial year 2014-15 and 2015-16. He was of the view that in fact salaries were increased by 40% and 38.6% in case of said trustees respectively during the financial year 2014-15, and further that said increase had already been found to be excessive in the order passed in appeal pertaining to the earlier assessment year.

Ultimately, Learned CIT(A) was of the considered opinion that increase in the salary of Dr. Pankaj Garg and Smt. Vidushi Garg by 14%,there being considerable increase in the receipts of the assessee trust as against receipts in the previous assessment year, salary of Rs.19,80,000/- in case of Dr. Pankaj Garg and salary of Rs.28,60,000/- in case of Smt. Vidushi Garg, was reasonable. In other words, Learned CIT(A) held that salary of Dr. Pankaj Garg was in excess to the tune of Rs. 5,20,000/- and in case of Smt. Vidushi Garg, to the tune of Rs. 7,40,000/-. Accordingly, the total disallowance on this point was restricted to Rs. 12,60,000/-.

30. As noticed above, this second round of litigation between the parties is in respect of two assessment year i.e. 2015-16 and assessment year 2016-17.

31. Learned AR for the assessee has challenged the impugned order, while contending that salary of Dr. Pankaj Garg and Smt. Vidushi Garg was static for 3 years i.e. in the financial years 2011-12, 2012-13 & 2013-14 i.e. salary of Smt. Vidushi Garg was Rs. 22,80,000/- that by Dr. Pankaj Garg was Rs. 15,00,000/-. In this regard, he has referred to the figures made available in the table available in the written submissions presented here in ITA No. 328/JPR/2023.

It has also been contended that turnover of an institution cannot be a criteria for increase in salary. In this regard, he has referred to the turnover of the assessee in the previous 3 financial years i.e. 2011-12, 2012-13 & 2013-14, the same being Rs. 24,02,67,425/-, Rs. 27,62,21,754/- and Rs. 29,61,26,041/- respectively.

32. Further Ld. AR for the assessee has pointed out that in the Financial year 2014-15, there was not much in increase in the turnover of the assessee-trust, the same being Rs. 29,92,33,408/-. He has also submitted that in the financial year 2015-16, gross receipt of the trust was to the tune of Rs. 33,31,11,983/-.

33. It has been contended by Ld. AR for the assessee that the Learned Assessing Officer should have collected and put forth comparable data of any third party, but, he did not collect any comparable data of any third

party, and rather, he compared the salary of the said two trustees with the salary of Dr. Rajendra Kumar Patni, who was an employee of the trust. In this regard, Ld. AR for the assessee has relied upon following decisions:-

1. ACIT Vs. **Mahima Shiksha Samiti,** (2017) 93 DTR 33(Jaipur Bench.).
2. CIT(E) Vs. **Mahima Shiksha Samiti,** (2017) 160 DTR 407 (Hon'ble Rajasthan High Court).
3. CIT Vs. **Idicula Trust Society** (2014) (Hon'ble Punjab and Haryana High Court).
4. **Heritage Education Society** Vs. DIT(E) (2021) 197 DTR 201 (Chandigarh Trib.).

34. In view of the above contention, ld. AR for the assessee has urged that the impugned order, whereby Learned CIT(A) has granted exemption only to extent as regards salary of Dr. Pankaj Garg and Smt. Vidushi Garg, instead of full exemption u/s 11 of the Act, deserves to be set aside, and the appellant is entitled to entire claim of exemption u/s 11 of the Act.

35. On the other hand, Learned DR for the Department has referred to the provisions of the Act and the decision of Hon'ble Supreme Court in case of **Sole Trustee, Loka Shikshana Trustvs. CIT**, (1975) 101 ITR 234, and submitted that this is a case where the trust claims itself to be a

charitable institution, but where its two trustees Dr. Pankah Gard and Smt. Vidushi Garg have acted for personal benefit, in drawing excessive salary, departing from the concept of “charitable” which, as per provisions of the Act, includes relief to the poor education, medical relief and the commencement of any other public utility. He has also emphasized on philosophical meaning of charity to contend that, here, from the salary drawn by the trustees, it cannot be said that same was for the benefit of the trust, and rather, same can safely be said to be for the benefit of the trustees, and not in consonance with the concept of charity, for which the trust is said to have been created.

We have gone through the decision cited on behalf of the department.

36. As noticed above, while framing assessments, Learned Assessing Officer invoked provisions of Section 13(1)(c) and Section 13(2)(c) of the Act and disallowed exemption otherwise permissible u/s 11 of the Act.

Section 11 of the Act provides that income from the property held under trust wholly for charitable or religious purpose shall not be included in the total income of the previous year of the person in receipt of the income specified thereunder.

Section 13 of the Act postulates that section 11 of the Act shall not apply in the cases specified therein. In other words, Section 13 of the Act provides that nothing contained in Section 11 of the Act shall operate so as to exclude from the total income of the previous year of the person in respect thereof, as specified therein.

37. Sub-section (3) of Section 13 specifies the persons referred to clause (c) of Sub-section (1) and Sub-section (2) of Section 13 of the Act.

38. Case of the assessee is that Dr. Pankaj Garg was appointed as Advisor of Jyoti Vidyapeeth women university, vide letter dated 16.05.2014.

39. Smt. Vidushi Garg is stated to have been appointed as Chairperson of the above said university on 10.06.2013.

40. As regards particulars like qualification, experience and duties of Dr. Pankaj Garg and Smt. Vidushi Garg, the assessee furnished the same before Learned CIT(A) in its submissions.

As per written submissions furnished on behalf of the assessee before this Appellate Tribunal, in the financial years 2011-12, 2012-13 and 2013-14, Smt. Vidushi Garg was paid salary to the tune of Rs. 22,80,000/- in each year, whereas Dr. Pankaj Garg was paid salary of Rs. 15,00,000/- in each year, during the aforesaid 3 financial years.

41. In Mahima Shiksha Samiti (supra) case, cited on behalf of the assessee for determining the reasonableness of the salary paid to persons, his/her qualification and experience is to be taken into consideration so as to find out as to whether the salary paid to him/her is commensurate with the working responsibilities he or she was assigned the said reasonableness is to be seen viz-a-viz the legitimate needs of the assessee, benefit derived that accrued to the assessee as well as fair market value of such service.

42. In **Heritage Educational Society** case (supra), Hon'ble ITAT Bench at Chandigarh observed that the assessee society had explained that the specified persons, to whom salary was paid, possessed requisite qualification and they were providing guidance and support to the management, which involved a lot of time and effort.

43. In **Idicula Trust Society case** (supra), Hon'ble High Court of Punjab and Haryana observed that President, Senior Member and Manager of the society worked in dual capacity i.e. as whole time administrative and also as regular time teacher , and they were paid salary from earning of the schools.

Therein, Tribunal upheld the decision of Learned CIT(A) with regard to President and Senior Member, but, with regard to others two, namely,

Members and Manager, part of disallowance made by Learned Assessing Officer, was upheld.

Hon'ble High Court held that there was nothing to show that payments made to the persons mentioned in the return, and also in the tax audit report were excessive.

Hon'ble High Court further observed that the trust had faltered in fixing salary of the persons serving as teachers and in comparing the same with other teachers of the school completely ignoring the fact that they were also engaged in whole time management capacity of the trust, and also rendering administrative functioning , for which they were not being paid any extra salary. Accordingly, Hon'ble High Court set aside the order passed by the Tribunal to the effect that it was a case of payment of excessive remuneration. Consequently, benefit of exemption u/s 11 of the Act was allowed to the assessee.

44. Learned DR for the department has also drawn our attention to the directions issued by this Appellate Tribunal, when the assessment orders initially framed and the orders passed by Learned CIT(A) were under challenge, so as to point out that specific directions were issued by this Appellate Tribunal, while restoring back the files to the Learned Assessing Officer, for fresh adjudication, and rightly submitted that the assessee

submitted wrong information before Learned Assessing Officer, by withholding details of Shri Amit Kumar Joshi and Shri Rajendra Kumar Patni, who were also paid salary exceeding of Rs. 5,00,000/-, so far as subject matter of ITA No.328/JPR/23 is concerned. No explanation has been put forth before us as to why said information as withheld from the Assessing Officer.

45. Learned DR for the Department has also pointed out from the assessment order relating to the assessment year 2015-16, wherein it was observed that the assessee failed to establish as to for how much period Smt. Vidhushi Garg, the Chairperson and Dr. Pankaj Garg, the Administrator had rendered services.

As further pointed out by Learned DR for the department, before Learned Assessing officer, the assessee had also failed to bring evidence as regards nature of duties and role of Chairperson and that of Administrator, as per statutes enacted and notified in the Gazette pertaining to State of Rajasthan.

As pointed by Learned DR the assessee had failed to provide any additional evidence establishing actual rendering of service by the said two persons proportionate to the huge salary paid to them.

In this regard, it may be mentioned that when the assessee was specifically directed by the Appellate Tribunal, at the time the matter was restored to the files of Assessing Officer to produce all the relevant facts before the Assessing Officer, in order to establish the actual rendering of services by said two trustees as well as all the relevant rules applicable in respect of qualification and appointment of persons on such posts so, it was for the Assessee to comply with the directions and also avail of the opportunities provided to it. From non compliance with the said directions and the assessee having not utilized the opportunities granted in this regard, adverse inference has to be drawn against the assessee.

46. While referring to the assessment order, and the observations made by Learned Assessing officer as regards salary paid to Dr. Pankaj Garg and Smt. Vidushi Garg, in comparison to the salary paid to Dr. Rajender Kumar Patni, learned DR has pointed out that the Learned Assessing Officer rightly observed that Dr. Rajender Kumar Patni was having Ph.D degree and he was more qualified than Dr. Pankaj Garg and Smt. Vidushi Garg, who were having degree in Microbiology and BHMS degree.8.

As regards, decisions cited by the ld. AR for the assessee, Learned DR for the department has submitted that the same are distinguishable on facts as highlighted by him in the course of arguments.

47. In response, Ld. AR for the assessee has reiterated that the Learned Assessing Officer did not collect any comparable data of any 3rd party, and rather took into consideration the salary which was paid to Dr. Rajendra Kumar Patni, an employee of the trust, and as such, it cannot be said that Learned Assessing Officer carried out comparison properly.

48. In this regard, it is relevant to mention here that in view of the specific findings recorded by Learned CIT(A), this issue of comparison of the salaries paid to the two trustees. Ld. CIT(A) clearly opined that the services rendered by the two specified persons cannot be compared with that of Dr. Rajendra Kumar Patni irrespective of his higher educational qualification, and further that the two have been doing the work of administrative nature and management of the University, whereas Dr. Patni was an employee, whose responsibilities were limited. As regards comparison with data of third party, when the assessee failed to comply with the directions issued by the Appellate Tribunal while restoring the matter to the AO, and the non production of material on the concerned aspects, as desired by the AO, we do not find any merit in the contention on behalf of the assessee that no comparison with any data of third party was made by AO.

49. Learned AR for the assessee has challenged the impugned order, while contending that salary of Dr. Pankaj Garg and Smt. Vidushi Garg was

static for 3 years i.e. in the financial years 2011-12, 2012-13 & 2013-14 i.e. salary of Smt. Vidushi Garg was Rs. 22,80,000/- that by Dr. Pankaj Garg was Rs. 15,00,000/-. In this regard, he has referred to the figures made available in the table available in the written submissions presented here in **ITA No. 328/JPR/2023.**

It has also been contended that turnover of an institution cannot be a criteria for increase in salary. In this regard, he has referred to the turnover of the assessee in the previous 3 financial years i.e. 2011-12, 2012-13 & 2013-14, the same being Rs. 24,02,67,425/-, Rs. 27,62,21,754/- and Rs. 29,61,26,041/- respectively.

50. Further Ld. AR for the assessee has pointed out that in the Financial year 2014-15, there was not much increase in the turnover of the assessee.

51. In this regard, at this stage, it is relevant to refer to the observations made by Learned CIT(A). It was observed in the impugned order that truly it was a case of huge increase in the salary of the two trustees during the year. The contention on behalf of the assessee that the salaries of these two trustees remained static for 3 years was rejected by Learned CIT(A). The reason given by Learned CIT(A) for holding said argument to be not justifiable is that the same was not accompanied by any information

regarding overall increase in salaries; that the increase in salary of specified persons has to be in line with overall salary hikes during the year; that the comparison had to be the immediately preceding year because the assessee paid amounts of salary considered suitable in that year; and that receipts of the assessee were another factor, which affect the salaries to be paid in comparison to the earlier year.

We do not any find ground to reject said good reasoning recorded by Learned CIT(A), particularly, when on behalf of the assessee it has not been explained as to what led to increase of 40% salary of Dr. Pankaj Garg and increase in the salary of Smt. Vidushi Garg by 38.6%. Assessee has not brought on record any material to suggest as to what kind of special duties were discharged by the two during the financial year 2015-16 which necessitated increase in their salaries and to this extent. Simply, because there was increase in the receipts could not be said to be the relevant factor or a convincing reason for the said increase. Learned AR for the assessee has not brought to our notice any decision to point out that said reasoning given by Learned CIT(A) is contrary to law.

For want of any evidence, it cannot be said that the increase in the salary of the two trustees was in line with the overall salary hikes during the year. Rather, all this goes to establish that these two trustees were paid

excessive salaries for their benefits, and said increase in the salaries cannot be said to be in furtherance of the objects of the trust, which is to increase the level of girl education.

52. Having regard to all the facts and circumstances, we appreciate and uphold the considered opinion arrived at by Learned CIT(A) to increase the salaries of the two trustees by 10%. Said increase can safely be said to be justifiable, having regard to the object of charity of the trust as well.

53. Consequently, we uphold the decision by Learned CIT(A), whereby total disallowance in case of the assessee has been restricted to Rs.11,02,000/-in relation to the assessment year 2016-17.

54. So far as the impugned order passed in relation to the assessment year 2017-18, out of which second appeal No.329/23 has arisen, Learned CIT(A) has taken into consideration considerable increase in receipts of the trust in the AY 2016-17 as against the receipts of the previous year.

Learned CIT(A) based his decision on the findings recorded in the order relating to AY 2015-16. As noticed above, we have upheld increase in the salary of the two trustees only by 10% as regards AY 2015-16. For the same reasons, we uphold the opinion arrived at by Learned CIT(A). We also uphold the impugned order wherein the factor of incremental increase

in the salary of the two trustees has been considered so as to grant 14% increase in their salaries as regards the AY 2016-17.

As a result, we uphold the impugned order whereby total disallowance in relation to the AY 2016-17 has been restricted to Rs.12,60,000/-only.

As a result, both these appeals are hereby dismissed.

Order pronounced in the open court on /06/2024.

(राठौड़ कमलेश जयन्तभाई)	(नरेन्द्रकुमार)
(RATHOD KAMLESH JAYANTBHAI)	(NARINDER KUMAR)
लेखा सदस्य /Accountant Member	न्यायिक सदस्य/Judicial Member

जयपुर/Jaipur
दिनांक/Dated:- /06/2024
*Santosh
आदेश की प्रतिलिपिअग्रेशित/Copy of the order forwarded to:

1. The Appellant- M/s Jyoti Vidyapeeth Trust, Jaipur.
2. प्रत्यर्थी/ The Respondent- Circle (Exemption), Jaipur.
3. आयकरआयुक्त/ The ld CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर/DR, ITAT, Jaipur
5. गार्डफाईल/ Guard File ITA No. 328 & 329/JPR/2023)

आदेशानुसार/ By order,

सहायकपंजीकार/Asstt. Registrar