

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND**  
**SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.585/Chny/2024  
निर्धारण वर्ष/Assessment Year: 2018-19

Kamalam Sambandam Alagiri Educational & Charitable Trust, 069, Thirupaninatham, Ennanagaram & Post, Chidambaram Taluk, Cuddalore-604 001.	v.	The ITO (Exemptions), Ward-2, Chennai.
[PAN: AABTK 6500 G]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri D. Anand, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri Krishnan Ramaswamy, JCIT
सुनवाईकीतारीख/Date of Hearing	:	29.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	25.06.2024

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 14.02.2024 for the Assessment Year (hereinafter in short "AY") 2018-19.



**2.** The main grievance of the assessee is against action of the Ld.CIT(A) dismissing the appeal only on the ground that the assessee had not filed any petition for admission of additional evidence.

**3.** The brief facts are that the assessee is a public Charitable Trust registered u/s.12AA of the Income Tax Act, 1961 (hereinafter in short "the Act" and that it was formed on 24.10.2008 with prime objects of imparting education and other objects stated in the Trust Deed. The assessee is running an educational institute by the name Perunthalaivar, Kamarajar Institute of Maritime Science and Engineering at No 1069, Thiruppaninatham, Keerapalayam, Chidambaram-608 602. The assessee Trust filed its return of income for the relevant assessment year admitting total income of Rs. Nil and later, the case of the Trust was selected for scrutiny and the AO issued statutory notices and asked for the details of "other income" earned by the Trust, which was shown in Schedule-AI of the return of income. Pursuant thereto, assessee filed reply on 23.02.2021 explaining/answering queries and furnished complete state of financials with ledger account forming part of the audited financial statement. However, the AO noted that "*in the ITR Schedule-AI*" the assessee has shown receipts from main objects at *NIL* and receipts from *incidental objects* at Rs. 6,45,88,536/-. Therefore, the assessee was show caused (SCN) vide notice u/s.142(1) of I.T.Act dated 11.02.2021 as under:-



"As per schedule AI, you have shown receipts from main object at Nil. Further, the receipts from any other income is shown at Rs.6,44,83,064/- you are hereby show caused to explain why the receipts of Rs.6,44,83,064/- should not be treated as receipts from business Activity & taxed under the head "Income from Business & profession".

**4.** Despite, the above SCN, according to the AO, there was no compliance from the part of assessee to the SCN, thereafter, the AO relied on the judgment of Hon'ble Bombay high court in the case of M.visvesvaraya Industrial Research & Development centre V/s Commissioner of Income Tax IT reference No.78 of 1998 25<sup>th</sup> October, 2012, wherein, it was held as under:

4.1. The income of an assessee derived from a property held under trust wholly for charitable or religious purposes would qualify for exemption under Section 11 even if it is applied to the incidental and ancillary objects/provided there is a nexus between such incidental and ancillary objects and the charitable purposes. Further such incidental or ancillary purposes must be precisely that - incidental or ancillary purposes. They cannot be the main or dominant purposes unconnected with or unrelated to the charitable purpose. They must be in aid of, pursuant to, in furtherance of and towards achieving the charitable purpose.

4.2. Thus, if in the present case, the assessee's activities were in conformity with its main object, it would necessarily have to incur expenditure in respect of its incidental and ancillary objects. For instance to support research and scientific activities, the assessee would necessarily have to incur expenditure on infrastructure, labour, professional services etc. If however, the main objects are abandoned, it can hardly be said that the expenditure towards the incidental objects was towards a charitable purpose.

4.3. The assessee, however, never engaged itself in any activity relating to its main or dominant object which could be said to be for a charitable purpose. The question, therefore, of its incidental or ancillary objects even having a nexus to the main object does not arise. The assessee has failed to establish that it applied its income towards the charitable purpose.

**5.** Therefore, the AO held that the assessee's, therefore, does not satisfy either the first or the second requirement of section 11(1)(a) of the Act. And since, the assessee has shown NIL receipts from main



object, as observed by the Hon'ble Bombay High Court judgment referred above, there was no question of examining nexus of the incidental objects with main object. Therefore, exemption claimed by Trust u/s 11 was denied; and the AO added Rs.6,45,88,536/- which was treated as *business income* of the assessee and added to the income of assessee.

**6.** Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) who was pleased to dismiss the same by holding as under:

7.1 The assessee has filed additional evidence during the course of appellate proceedings which does not explain the case of the assessee. However, no petition has been filed by the assessee for admission of additional evidence justifying and explaining as to under which Clause of Rule 46A(1), the assessee's case is covered and as to why the additional evidence should be admitted. Therefore, I am of the considered view that the additional evidence filed by the assessee is not admissible. Accordingly, the same is not admitted. Moreover, the additional evidence filed is incomplete and does not in way buttress the grounds of appeal filed by the assessee. The assessee has a long history of non cooperation and non compliance as clear from his conduct during the assessment proceedings as well as during the appellate proceedings. In the circumstances, I do not see any reason to interfere with the well reasoned and speaking order of the AO. Therefore, the additions of, which was added to the income of Rs. 6,45,88,536/- by the AO is confirmed.

**7.** Aggrieved, the assessee is in appeal before this Tribunal.

**8.** We have heard both the parties and perused the material available on record. The Ld.AR drew our attention to the fact that the assessee is a public Charitable Trust registered u/s.12AA of the Act and that assessee Trust was formed on 24.10.2008, with main object of imparting education and other objects stated in the Trust Deed. The Ld.AR also placed before us the assessment made for earlier years i.e. AY 2017-18 by the AO u/s.143(3) of the Act dated 06.12.2018, wherein, the AO accepted the income returned by the assessee at NIL. According to the Ld.AR in the



year under consideration (AY 2018-19), while e-filing the return, there was an inadvertent mistake while filling up column in Schedule-AI, wherein, assessee had shown receipts from the main objects as *blank*; and by mistake had shown receipts from *other income* as Rs.6,44,88,064/-. The AO taking note of the erroneous entries in Schedule-AI, has inferred that assessee didn't carry out any activity for the main-object for which it was created, because, no receipt was shown from such activity. And instead, since, assessee had offered Rs.6,44,88,064/- from other income/incidental income, he presumed that assessee didn't carry out any activity for the primary objects for which it was created; and therefore, the AO added the entire amount as business income. On appeal, before the Ld.CIT(A), even though, the assessee had filed explanation as to how the mistake happened in Schedule AI (supra) and asserted that it had explained to the AO, but for no reasons, he has brushed it aside and had made the impugned addition; and in that process, the assessee filed papers/documents to substantiate its case, but the Ld.CIT(A) simply dismissed the appeal merely on the ground that the assessee didn't file petition for admission of additional evidences. This impugned action of the Ld.CIT(A) cannot be countenanced. It should be borne in mind that the Ld.CIT(A) is a quasi judicial body and the assessee if aggrieved by the order of the AO, has statutory right to file appeal before the Ld.CIT(A)/First Appellate Authority; and in such an event, the



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First Appellate Authority is duty bound to adjudicate the grounds of appeal as stipulated u/s.250(6) of the Act. It is noted that the assessee had filed relevant documents before the AO to show that its income was from educational activities and the very same documents were filed by the assessee before the Ld.CIT(A). Be that as it may, we note that the AO has made addition merely on the strength of the inadvertent mistake reflected in the Schedule AI as noted (supra). The AO has not properly evaluated the explanation given by assessee explaining the mistake. Therefore, we are inclined to set aside the impugned order of the Ld.CIT(A) and restore the same to the file of JAO for the limited purpose of ascertaining the explanation given by the assessee that college fees of Rs.5,01,00,283/- and other incidental income (total of Rs.6,44,83,064/-) are receipts from the main object of the assessee trust; and it is noted that in earlier AY 2017-18, the AO had accepted the RoI filed by the assessee Trust. And the AO after hearing the assessee to pass order in accordance to law.

**9.** In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 25<sup>th</sup> day of June, 2024, in Chennai.

**Sd/-**  
(एस. आर. रघुनाथा)  
**(S.R.RAGHUNATHA)**  
लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**  
(एबी टी. वर्की)  
**(ABY T. VARKEY)**  
न्यायिक सदस्य/**JUDICIAL MEMBER**



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चेन्नई/Chennai,  
दिनांक/Dated: 25<sup>th</sup> June, 2024.

**TLN, Sr.PS**

आदेश की प्रतिलिपि अग्रेषित /Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF