

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "F" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
SHRI SUNIL KUMAR SINGH (JUDICIAL MEMBER)**

**ITA No. 522/MUM/2024  
Assessment Year: 2016-17**

The United World College Committee  
(India),  
Ground Floor, Mahindra Towers,  
Worli,  
Mumbai-400018.

**PAN NO. AAATT 3774 C  
Appellant**

**Vs.** ACIT Exem., Circle 2,  
Piramal Chambers, Lal Baug,  
Parel,  
Mumbai-400012.

**Respondent**

Assessee by : Mr. R D Onkar/Viksit Bhargava  
Revenue by : Ms. Rajeshwari Menon, Sr. DR

Date of Hearing : 08/07/2024  
Date of pronouncement : 24/07/2024

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the assessee is directed against order dated 04.01.2024 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the CIT(A)'] for assessment year 2016-17, raising following grounds:



i. The learned CIT(A) erred in disallowing the amount of income Rs. 1,08,09,573/-accumulated/set apart by the appellant for application in the succeeding year/s in consonance with the applicable provisions of Section 11(2) of the Act. The learned CITA erred in confirming the disallowance on an erroneous inference that reason given for accumulation by the appellant was not specific and was only a reiteration of the broad objective of the trust.

ii. The learned CIT(A) failed to appreciate that the said amount of income accumulated/ set apart was wholly for charitable purpose of distribution of scholarship amounts strictly on merit to its college students, who are economically weaker, which was a determinate and concrete charitable object prosecuted by the appellant trust all these years and did not warrant any disallowance on an inference that the said object was too broad or general. The learned CITA erred in not appreciating that the AO had failed to apply the well reckoned principle of consistency where the fact situation and circumstances remaining same, the afoesaid aspect permeating through the preceding assessment year/s had been found as a fact and allowed to be sustained and there existed no reason to deviate from the said fact situation in the impugned year.

2. Briefly stated, facts of the case are that in the assessment completed u/s 143(3) of the Act, the exemption for accumulation of the income in terms of section 11(2) of the Income-tax Act, 1961 (in short 'the Act') was denied to the assessee for the reason that purpose of accumulation stated by the assessee in Form No. 10, as *scholarship to students*, was not found to be a specific purpose by the Assessing Officer. According to the Assessing Officer, the accumulation of funds for the purpose of scholarship is general in nature and cannot be considered to be for concrete purposes. The Ld. Assessing Officer referred to the decision of the Hon'ble Calcutta High Court in the case of **DIT(E) v. Trustees of Singhania Charitable Trust 199 ITR 819**, wherein the Hon'ble High Court held that accumulation should be for specified purpose. The Ld. Assessing Officer further referred to the decision of the Hon'ble Bombay High Court in the case of **CIT v. SBI 169 ITR 298**



**(Bombay)**, wherein it is held that accumulation contemplated u/s 11 has to be conscious accumulation and not just the mass of unspent or unapplied profits. Accordingly, the Ld. Assessing Officer denied the claim of exemption in respect of amount of Rs.1,08,09,573/-. On further appeal, the Ld. CIT(A) also upheld the disallowance observing as under:

*“4.3.4 It is seen from the MOA of the appellant trust that one of the aim of the trust is that to ensure full and partial scholarships awarded to students are awarded strictly on the basis of merit. Further it is seen that the appellant had deposited Rs. 72,50,000/- out of Rs. 1,08,09,573/- in fixed deposits with HDFC Ltd. and the balance of Rs. 35,59,573/- in a saving bank account with HDFC Bank. As per the submissions of the appellant, it had fulfilled all the conditions laid down for claiming exemption under sec. 11(2) of the IT Act.*

*4.3.5 However, the accumulation made by the appellant is not for any determinate purpose or purposes but for the objects as enshrined in the trust deed in a blanket manner. Accumulation in such a global manner is definitely not in the contemplation of sec. 11(2) when it is construed in its setting. Sub section (2) which provides for the long term accumulation of the income. Obviously, such long term accumulation should be for a definite and concrete purpose or purposes. The very fact that the statute requires the purpose for accumulation to be specified implies such a purpose to be a concrete one, an itemized purpose or a purpose instrumental or ancillary to the implementation of its object or objects. The very requirement of specification of purpose predicates that the purpose must have an individuality. The provision of sub section (2) is a concession provision to enable a charitable trust to meet the contingency where the fulfilment of any project within its object or objects needs heavy outlay to call for accumulation to amass sufficient money to implement it. In view of the above, I have no reason to interfere with the decision of the Assessing Officer and hence, the disallowance of Rs. 1,08,09,573/- is upheld. Ground No. 1 & 2 are dismissed.”*

3. We have heard rival submission of the parties and perused the relevant material on record. The issue in dispute is regarding the purpose for which the income to the extent of Rs.1,08,09,573/- was accumulated by the assessee for claiming exemption u/s 11(2) of



the Act. For ready reference section 11(2) of the Act is reproduced as under:

*“(2) [Where [eighty-five] per cent of the income referred to in clause (a) or clause (b) of sub-section (1) read with the Explanation to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—*

*(a) such person specifies, by notice in writing given to the [Assessing] Officer in the prescribed manner, **the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart**, which shall in no case exceed ten years;*

*[(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5)]:*

*(c) the statement referred to in clause (a) is furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:*

*[Provided that in computing the period of ten years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded:]*

*[Provided further that in respect of any income accumulated or set apart on or after the 1st day of April, 2001, the provisions of this sub-section shall have effect as if for the words "ten years" at both the places where they occur, the words "five years" had been substituted.]*

*[Explanation.-Any amount credited or paid, out of income referred to in clause (a) or clause (b) of sub-section (1), read with the Explanation to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.]”*

3.1 Thus, the law prescribe that where the assessee is unable to apply 85% of the gross income for charitable purpose, then it is



required to invest or deposit said accumulated fund in the specified mode and furnish statement in Form No. 10 before the Assessing Officer stating the purpose for which the income is being accumulated. Before us, the assessee has filed a copy of the Form No. 10, which is available on paper book page 3 and 4. Against the column specified for purpose for which amount is accumulated or said apart, the assessee has mentioned 'scholarship to the students'. According to the Assessing Officer mentioning this purpose is not specific purpose and therefore, he has denied the exemption to the assessee. Before us, the Ld. counsel for the assessee has relied on the decision of the Co-ordinate Bench of the Tribunal in the case of Bal Jeevan Trust v. ITO in ITA No. 1872/Mum/2023 dated 12.12.2023 wherein the Tribunal has observed as under:

*"12. Having heard both the parties and after perusal of the records, we note that the assessee is a public charitable trust registered u/s 12A of the Act with the main objective to do philanthropic acts and to take care/education of street-children/under-privileged children. The objective for the Trust, which is discernable from perusal of the page no. 6 of PB, were to do philanthropic acts and to take care of street-children/under-privileged children and especially their i) Health Care(ii) Nutrition (iii) Literacy and basic education (iv) Self-esteem (V) Group skill, support services and associated support services (vi) Income generating schemes and (vii) Advancement of any other, social welfare objective. In this case, the assessee filed its return of income declaring income at Rs.11,83,030/- which was e-filed on 17.10.2016. The assessee had shown gross receipts of Rs.69,49,289/- and had applied towards the object of the trust a sum of Rs.18,83,357/-[Excluding depreciation as per section 11(6) of the Act]. Thus, it was found that only a sum of Rs.15,99,351/- was applied for education activities out of Rs.18,83,357/-. According to AO, the assessee had not applied 85% of the income but has accumulated income of Rs.30 Lakhs u/s 11(2) of the Act for the purpose of "Basic Education, Health Care and Nutrition to Underprivileged children" which reason for accumulation, according to him, was not for a specific purpose, and instead was only a reiteration of*



*the broad objectives of the trust. According to AO, this general purpose cannot satisfy the requirement of section 11(2) of the Act read with Rule 17 of the Rules. According to AO, accumulation of income u/s 11(2) of the Act must be for heavy outlay of expenses and therefore he disallowed the same. On appeal, the Ld. CIT(A) confirmed the action of AO after citing the decision of the Hon'ble Calcutta High Court in the case of Director of Income Tax v Trustees of Singhania Charitable Trust (1993) 199 ITR 819 (Cal) and the decision of the Hon'ble Punjab & Harayana High Court in the case of Maharaja Ranjit Singh War Museum v CIT order dated 20.03.2020 (ITA. No.259 of 2019).*

*13. We do not countenance the action of the Ld. CIT(A). We note that assessee Trust while making a claim for accumulating income to the tune of Rs.30 Lakhs as per sub-section (2) of section 11 of the Act, has fulfilled the conditions prescribed therein by filing the Form 10 wherein the assessee has spelled out the purpose for accumulation as "Basic Education, Health Care and Nutrition to Underprivileged children" which we find is in consonance with the purpose/object of the trust itself. Therefore, according to us, the claim for accumulation u/s 11(2) of the Act cannot be denied to assessee. The Hon'ble Delhi High Court in the case of Hotel and Restaurant Association (supra), held that even though it is true that specification of certain purpose or purposes is needed for accumulation of trust's income u/s 11(2) of the Act, but at the same time, the purpose or purposes to be specified cannot be beyond the objects of the Trust. Their Lordships observed "Plurality of the purposes for accumulation is not precluded, but it depends on the precise purpose for which the accumulation is intended". Thus, we find that in the present case that income sought to be accumulated by the assessee was to achieve the object for which the assessee was incorporated. We find that it is not the case of AO/Ld. CIT(A) that any of the objects of the assessee trust were not for the purpose beyond the object of the trust or not charitable purpose. Further, we note from the statement of financials of the trust that assessee has applied its income for the education, feeding and clothing of the street children of Mumbai. We note that the income sought to accumulated by assessee was to achieve the three objects for which the assessee was formed. Before us, the Ld. DR could not point out that purpose shown in Form 10 for accumulating Rs.30 Lakhs was not for object of the trust. In such a scenario, since assessee has satisfied the conditions laid down in section 11(2) of the Act for accumulation of the income, the same has to be allowed. It is also noted that from chart (supra) (statement of income, expenses and accumulation) it shows that the assessee in AY. 2022-23 & AY. 2023-24 has offered excess amount which had been applied for achieving the objects of the trust. In the light of the judicial precedents as laid down by Hon'ble Delhi High Court as noted (supra), we are inclined to allow the prayer of the assessee to allow accumulation of income u/s 11(2) of the Act of Rs.30 Lakhs by following the ratio of the Hon'ble Supreme Court decision in the case of M/s. Vegetables Products Ltd. (supra) since other view is also possible. Therefore, the appeal of the assessee is allowed."*



3.2 Thus, the limited issue in dispute in the case of the assessee is whether the purpose mentioned as scholarship to students is a specific purpose or not. Respectfully, applying the ratio of the decision of the Tribunal (supra) relied upon by the assessee and the decision of the Hon'ble Bombay High Court (supra) relied upon by the Assessing Officer, we have examined whether the purpose mentioned by the assessee as 'scholarship to students' is specific or not. We find that the assessee is engaged in the issuing of scholarship to the students as one of its objects of the charitable purpose. In our opinion, for the purpose of scholarship to be specific it is sufficient that same is as per objects of the assessee and details like name of the students or sum to each student was not required to be mentioned. The coordinate bench of Tribunal in the case of **Archatic Yoga Ashram Management Trust vs ITO (2021) 126 taxmann.com 76**, following finding of Hon'ble supreme Court in the case of **Bochasanwasi Shri Akshar Purshottam Pulic cable Trust (supra)** held that if the specific purpose mentioned is within the objects of the trust, then it is sufficient for fulfilling requirement of section 11 of the Act. Relevant finding of the Tribunal (supra) is reproduced as under: Further, the Hon'ble Delhi High Court held in the case of CIT v. Hotel & Restaurant Association [2003] 132 Taxman 76 (Delhi) observed that specification of certain purpose or purposes is needed for the accumulation of trust income u/s 11(2) of the Act but at the same time purpose or purposes to be specified cannot be beyond the



object of the trust. In the instant case before us, also the income has been accumulated for the purpose of objects of the assessee and it is not the case of the Revenue that income has been accumulated otherwise then for charitable purposes of the trust. In view of the above discussion, we hold that the assessee has fulfilled the requirement of section 11(2) of the Act as far as purpose for which income was to be accumulated and accordingly, we aside the order of the Ld. CIT(A) on the issue in dispute and delete the addition made by the Assessing Officer. The grounds of appeal of the assessee are accordingly allowed.

4. In the result, the appeal of the assessee is allowed.

**Order pronounced in the open Court on 24/07/2024.**

**Sd/-  
(SUNIL KUMAR SINGH)  
JUDICIAL MEMBER**

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 24/07/2024  
Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,  
(Assistant Registrar)  
**ITAT, Mumbai**