

IN THE INCOME TAX APPELLATE TRIBUNAL

“C” BENCH, MUMBAI

SHRI B.R. BASKARAN (AM) & SHRI SUNIL KUMAR SINGH (JM)

I.T.A. No. 1673/Mum/2024 (A.Y. 2018-19)

<b>Chhedanagar Education Society,</b> C/o Modern English School, Chhedanagar, Chembur, Mumbai-400089 <b>PAN : AAATC2833M</b>	Vs.	<b>ITO (Exemption), Ward-1(2),</b> Income Tax Offices, Rom No. 620, 6 <sup>th</sup> Floor, Cumbala Hill TE Building, Pedder Road, Dr. Gopalrao Deshmukh Marg, Cumbala Hill, Mumbai-400026.
(Appellant)		(Respondent)

Assessee by	Shri Vaishnavi Vishwanathan, Adv.
Department by	Shri H.M. Bhat, Sr. DR
Date of Hearing	17.06.2024
Date of Pronouncement	31.07.2024

**ORDER**

**PER B R BASKARAN, AM:-**

The assessee has filed this appeal challenging the order dated 09.02.2024 passed by the Ld. Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre – Delhi [for short ‘the Ld. CIT(A)’] and it relates to Assessment Year (AY) 2018-19. The assessee is aggrieved by the decision of ld. CIT(A) in confirming the addition of Rs. 6.54 crores made by the Assessing Officer (AO) treating the above said amount as anonymous donations received by the assessee.

2. The facts relating to the case are stated in brief. The assessee is an Education Society registered under the Bombay Public Trust Act and Societies Registration Act. It is registered as a charitable trust u/s 12AA of the Act also. It is running a Modern English School in Chhedanagar, Chember, Mumbai. The assessee filed its return of income for the year under consideration admitting a total income of Rs. 2,33,080/- after claiming exemption u/s 11 of the Act. The AO noticed that the assessee has maintained bank Accounts with ten Banks, but it has mentioned the name of four banks only in the return of income. Hence the AO examined the bank statements for the year under consideration. From those bank statements, the AO collated the details of amount of deposits made in these ten banks. The aggregate amounts credited into these bank accounts worked out to Rs.10,49,58,979/-. The AO noticed that in the return of income, the assessee has shown total receipt of Rs.3,95,12,632/- only. Accordingly, the AO treated the difference between the above said two figures, which amounted to Rs. 6,54,46,347/- as anonymous donation received by the assessee and added the same to the total income of the assessee. The Ld. CIT(A) also confirmed the same. Hence the assessee has filed this appeal.

3. The submission of ld. Authorized Representative (AR) is that the assessee is subjected to audit under Societies Registration Act as well as under the Income Tax Act. All the ten Bank Accounts referred to by the AO are duly recorded in the books of account. By inadvertence, only four bank details were given by the assessee in the return of income. The Ld A.R further submitted that the AO was not right in law in presuming that the entire receipts shown in the Bank Accounts represent income of the assessee. The receipts consisted of not only revenue receipts, but also other receipts which do not constitute income in the hands of the assessee. The details of such receipts are

- (a) Inter-bank transfers
- (b) Advance Fees received, which will be offered as income in the succeeding year

- (c) Grant in aid received for sports activities  
(d) Sweep transfers between SB account and Fixed Deposit accounts.

The Ld A.R submitted that all these transactions are not taxable. The ld. AR also furnished the reconciliation statement in order to support her contention that there is no suppression of receipts as presumed by the tax authorities.

4. On the contrary, the Ld. Departmental Representative (DR) supported the orders of the tax authorities.

5. We have heard the rival contention and perused the record. The reconciliation statement furnished by the assessee treated as under:

<i>Net Income shown in the Return of income</i>		<i>Rs. 3,95,12,632.00</i>
<i>Less:- Income not routed through bank, viz.,</i>		
<i>    Cash receipts, Accrued income, transfer from</i>		
<i>        Advances, miscellaneous income</i>		<i>Rs. 1,85,54,657.00</i>
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<i>Income received through bank accounts</i>		<i>Rs. 2,09,57,975.00</i>
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<u><i>Add: Receipts not in the nature of income:-</i></u>		
<i>Inter Bank Transactions</i>	<i>Rs. 4,66,03,749/-</i>	
<i>Advance Fee</i>	<i>Rs. 29,97,200/-</i>	
<i>Sports Grant</i>	<i>Rs. 7,00,000/-</i>	
<i>Sweep Transfer between SB &amp; FD</i>	<i>Rs. 3,37,00,525/-</i>	<i>Rs. 8,40,01,474.00</i>
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<i>Total Receipts as per bank accounts</i>		<i>Rs.10,49,58,449.00</i>
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(The AO has taken the aggregate deposits in the bank accounts as Rs.10,49,58,979/-. Hence there is a marginal difference of Rs.530/-)

6. It is well settled principle of law that all receipts cannot be considered as income. All receipts are classified into two categories, viz., Capital receipts and Revenue receipts. Capital receipts are not considered as income unless the Statute provides so by legal fiction. Similarly all revenue receipts are

considered as income unless the Statute provides specific exemption. However, the AO has considered all receipts credited into the bank accounts as income of the assessee in the instant case, which is contrary to the above said principles. It is the submission of the assessee that the receipts to the tune of Rs.8,40,01,474/- are not in the nature of income. We shall examine each of the above said receipts.

7. First item of receipt is Rs.4,66,03,749/-. Since the assessee has maintained bank accounts, there has been inter bank transfer between various bank accounts aggregating to Rs.4,66,03,749/-. These inter bank transfers are neither revenue receipts nor capital receipts, since it is a transfer of assessee's own funds from one of his bank accounts to another bank account. Hence the above said amount cannot be considered as income of the assessee.

8. Second item of receipt is Rs.3,37,00,525/-. The assessee has maintained "Rainbow FD" account with Karur Vysya Bank. The Ld A.R submitted that, in the above said account, there will be automatic transfer from SB account to FD account whenever the SB account balance exceeds the pre-prescribed limit. Whenever funds are required, the FD account shall be closed pre-maturely and the proceeds will be transferred to the SB account. Hence it is also a case of transfer of money belonging to the assessee between SB account and FD account. Such transfers are called "Sweep transfers". Such types of credits are neither revenue receipts nor capital receipts and hence they cannot be considered as income of the assessee. The aggregate amount of such sweep transfers are Rs.3,37,00,525/-, which cannot be considered as income of the assessee.

9. The next item is Advance receipts amounting to Rs.29,97,200/-. As per the mercantile system of accounting, these receipts shall be considered as income of the year to which it pertains to. In the reconciliation statement

extracted above, we have seen that the assessee has offered income of Rs.1,85,54,657.00, which inter alia, included advance receipts, meaning that the advance receipts received in the earlier year has been transferred to income account during the year under consideration. Hence, as per the method of accounting followed by the assessee, the above said advance receipts of Rs.29,97,200/- cannot be considered as income of the assessee.

10. The remaining amount is sports grant of Rs.7,00,000/-. The assessee has treated the same capital receipts and hence it was not offered as income.

11. The foregoing discussions would show that the aggregate amount of Rs.8,40,01,474/- cannot be treated as income of the assessee. On the other hand, the assessee has offered a sum of Rs.1,85,54,657/- as income, even though the above said amount was not routed through the bank accounts. The difference between Rs.8,40,01,474/- and Rs.1,85,54,657 amounting to Rs.6,54,46,817/- has been treated as income by the assessing officer. We have earlier noticed that the above said receipt aggregating to Rs.8,40,01,474/- cannot be considered as income of the assessee. Hence, there is no rationale in treating the amount of Rs.6,54,46,347/- as income of the assessee, as there is no suppression of income as presumed by the tax authorities. Accordingly, we set aside the order passed by Ld CIT(A) on this issue and direct the AO to delete the above said addition.

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

Order pronounced in the open court on 31.07.2024.

Sd/-

(SUNIL KUMAR SINGH)  
JUDICIAL MEMBER

Sd/-

(B.R. BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 31/07/2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

*SK, Sr.PS*

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai