

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखासदस्य के समक्ष  
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1998/Chny/2024  
निर्धारण वर्ष /Assessment Year: 2018-19

The Income Tax Officer  
(Exemptions),  
Ward-3, Chennai.

**Vs.** Brindavan Educational Trust,  
Gandhipuram,  
Natrampalli – 635 852.  
[PAN: AACTB 9587H]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Assessee by  
प्रत्यर्थी की ओर से /Respondent by

: Shri K.S.Balakrishnan, Advocate  
: Ms. R. Anita. Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 17.10.2024

घोषणा की तारीख /Date of Pronouncement

: 17.10.2024

आदेश / **ORDER**

**PER JAGADISH, A.M :**

Aforesaid appeal filed by the Revenue is against the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 15.06.2024 directing the Assessing Officer (A.O) to re-compute the total income by taking into account the surplus shown in the income and expenditure account for the year and not the entire gross receipts.

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2. The assessee is a trust and engaged in the educational activities and filed return of income declaring total income at Nil on 31.03.2019. The CPC, Bengaluru in the intimation u/s. 143(1) of the Income-tax Act, 1961 (hereinafter "the Act") has determined the total income at gross receipts of Rs. 2,06,47674/-. The assessee filed rectification u/s. 154 of the Act which has been rejected by the A.O. The assessee has filed appeal before Ld. CIT(A) and the Ld. CIT(A) held that only the surplus of income over expenditure should be brought to tax and directed the jurisdictional A.O to re-compute the total income by taking into account of the surplus shown in the audited income and expenditure account. Now, the Revenue is in appeal against the direction of Ld. CIT(A).

3. The Ld. Departmental Representative (DR) has argued that the Ld. CIT(A) does not have power to give direction and he can only confirm to reduce or onus or annual the assessment and therefore, the order of Ld. CIT(A) be set aside.

4. The Ld. Authorized Representative (A.R) of the assessee, on the other hand, has supported the order of Ld. CIT(A) and submitted that there is nothing wrong in the direction of Ld CIT(A), as even if the

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assessee is not eligible for exemption u/s. 11 of the Act, only the surplus of income over expenditure can be taxed not the gross receipt .

5. We have heard the rival submissions, and perused the materials available on record. We agree with the submissions of the Ld. AR that only surplus of income over expenditure is to be taxed not the gross receipts. We also agree with the Ld. DR that the CIT(A) can only confirm, reduce, enhance or annul the assessment but does not have power to give the direction. We accordingly set aside the orders of Ld. CIT(A) and remit the matter back to the file of AO to re-compute the income by taking into account the surplus shown in the audited income and expenditure account for the relevant year. Hence, the appeal filed by the Revenue is allowed for statistical purposes.

6. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

*Order pronounced in the Open Court on 17<sup>th</sup> October, 2024.*

**Sd/-**  
**(महवीर सिंह)**  
**(Mahavir Singh)**

**उपध्यक्ष / Vice President**

**Sd/-**  
**(जगदीश)**  
**(Jagadish)**

**लेखा सदस्य / Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 17<sup>th</sup> October, 2024.

EDN/-

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आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF