

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “A” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA Nos.373, 374 & 375/Ahd/2024
Assessment Years: 2016-17, 2017-18 & 2018-19 respectively**

DCIT(E), Circle-1, Ahmedabad.		Gujarat Council of Vocational Training, Block No.1, 1 st Floor, Dr. Jivraj Mehta Bhawan, Gandhinagar – 382 010, Gujarat. [PAN – AABTG 3148 A]
(Appellant)		(Respondent)
Assessee by	Shri Tushar Hemani, Sr. Advocate & Shri Parimalsinh B. Parmar, AR	
Revenue by	Shri Ritesh Parmar, CIT-DR & Shri Veerabadram Vislavath, Sr. DR	
Date of Hearing	17.10.2024	
Date of Pronouncement	30.10.2024	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER:

These three appeals are filed by the Revenue against a consolidated order dated 04.01.2024 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Years 2016-17, 2017-18 & 2018 -19.

2. All these three appeals are on identical facts and, therefore, we are taking ITA No.373/Ahd/2024 for Assessment Year 2016-17. In this appeal, the Revenue has raised the following grounds :-

- “ (i) *Whether on the facts and circumstances of the case, Ld. CIT(A) has erred in deleting the addition of Rs.5,53,97,867/- (Rs.4,34,50,000/- + Rs.1,19,47,867/-) relying on the decision of Hon'ble ITAT, Ahmadabad in A.Y. 2009-10 to A.Y.2012-13 (which mainly relied on the fact that no appeal was preferred by the Revenue against order of CIT(A) in A.Y.2011-12), ignoring the fact that principles of res-judicata does not apply to Income Tax proceedings.*

- (ii) *Whether on the facts and in the circumstances of the case, Ld. CIT(A) was correct in not considering the fact that the activities of the assessee fall under the category of advancement of any other object of general public utility and are, therefore covered under the provisos to Section 2(15) r.w.s. 13(8) of the I.T. Act.*
- (iii) *Whether on the facts and in the circumstances of the case, Ld. CIT(A) was correct in not considering the fact that there is amendment in proviso to Section 2(15) of the IT Act after amendment in the Act vide Finance Act, 2015 w.e.f. 01.04.2016 and reliance on order of ITAT (supra) cannot be made in the year under consideration.*
- (iv) *Whether on the facts and in the in the circumstances of the case, the Ld. CIT(A) is justified in holding that the activities of the assessee were not covered by the proviso to Section 2(15) r.w.s.13(8) of the I.T. Act and was eligible for the benefits of Section 11 and 12 of the Act ignoring the guidelines laid down by Hon'ble Supreme Court of India regarding significantly high mark-up in the case of ACIT vs Ahmadabad Urban Development Authority dated 19 10.2022 reported in [2022] 143 taxmann.com 278(SC) and ACIT(E) vs. AUDA dated 03.11.2022 in M.A. No.1849 of 2027 ?*
- (v) *Whether, on the facts and circumstances of the case, Ld. CIT(A) has erred in deleting the addition relying upon the order dated 23.06.2020 passed u/s. 119(2)(b) of the I.T. Act by CIT(E), Ahmadabad condoning the delay in filing Form 10 ignoring the fact that the assessee is not eligible for exemption u/s.11 of the I.T. Act as per the proviso to Section 2(15) r.w.s.13(8) of the I.T. Act.*
- (vi) *Whether, on the facts and circumstances of the case, Ld. CIT(A) has erred in deleting the addition of Rs.3,43,22,230/- on account of cash deposit ignoring the discrepancies pointed by the AO in the remand report submitted to Ld. CIT(A)."*

3. The assessee was granted registration under Section 12AA of the Income Tax Act, 1961 vide order dated 31.01.2006. The assessee is a Government funded Organisation. The main object of the assessee is to continuously carryout the surveys regarding demand for manpower requirement in various vocational skill trades and on the basis of such surveys, work out projections of requirement of skilled manpower in the State. Depending upon the requirement of the industries, to develop curriculum and make suitable modification in the existing vocational trades. The assessee also promotes development of curriculum for trades conducted in Private Vocational Training Institutions. The assessee's main object is that of education and it is not

profit/loss centric. All the members of the governing body of the assessee are Government Officers. The State Council for vocational training is a counterpart of NCVT at the State level and it plays the very same role which is being played by the NCVT. SCVT is chaired by Secretary for higher and technical education. Role of State Government in training activities is as follows :-

- *Implementation of program in mission mode*
- *Bringing all training schemes of all departments under one umbrella*
- *Field study for manpower mapping in all districts*
- *Designing Competency base curriculum*
- *Preparing Training material*
- *Faciality for Training of trainers*
- *Additional Infrastructure for training*
- *Mechanism for quality audits to monitor training quality*
- *Examination & Certification of trainees*
- *Mechanism for follow up of employment*
- *Linkages with various Govt./Non-Govt. Dept. for self-employment*
- *Popularisation & Publicity of the scheme.*

All these activities were undertaken by the assessee and treated as educational activities. Thus, the assessee submitted that these activities were carried out by the assessee for charitable purpose as defined under Section 2(15) of the Act. The assessee claimed deduction under Section 11(2) of the Act amounting to Rs.4,34,50,000/- in respect of amount accumulated/set apart for specific purpose. The Assessing Officer made the said addition thereby stating that, as envisaged under Section 11(2) of the Act, the assessee did not file Form 10 for claiming benefit of such accumulation. The Assessing Officer also disallowed the claim under Section 11(1)(a) of the Act amounting to Rs.1,19,47,867/- to that extent the Assessing Officer also made addition of Rs.3,43,22,230/- on account of cash deposits in Bank account.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) allowed the appeal of the assessee.

5. The Ld. DR submitted that the CIT(A) erred in deleting the addition of Rs.5,53,97,867/- relying on the decision of ITAT, Ahmedabad in Assessment Year 2009-10 to 2012-13, which mainly relied on the fact that the no appeal was preferred by the Revenue against the order of CIT(A) in Assessment Year 2011-12, ignoring the fact that principles of res-judicata does not apply to Income Tax proceedings. The Ld.

DR further submitted that the CIT(A) was not correct and totally ignored the fact that the activities of the assessee fall under the category of advancement of any other object of general public utility and, therefore, covered under the proviso to Section 2(15) read with Section 13(8) of the Act. There is an amendment in the proviso to Section 2(15) of the Act and after amendment in the Act vide Finance Act 2015 w.e.f. 01.04.2016, the reliance on order of the ITAT cannot be made in the present Assessment Year. The Ld. DR further submitted that the activities of the assessee were not covered by the proviso to Section 2(15) read with Section 13(8) of the Act and was not eligible for the benefit of Sections 11 & 12, as envisaged in the guidelines laid down by the Hon'ble Apex Court in case of ACIT vs Ahmedabad Urban Development Authority (2022) 143 taxmann.com 278 (SC). The Ld. DR submitted that the additions relying upon the Order dated 23.06.2020 passed by the CIT(A) thereby condoning the delay in filing Form 10 ignoring the fact that the assessee is not eligible for exemption under Section 11 of the Act as per the proviso to Section 2(15) read with Section 13(8) of the Act.

5.1 As regards ground no.6, the Ld. DR submitted that the CIT(A) erred in deleting the addition of Rs.3,43,22,230/- on account of cash deposit thereby ignoring the discrepancies pointed out by the Assessing Officer in the remand report submitted before the CIT(A).

6. The Ld. AR submitted that the addition of Rs.4,34,50,000/- was solely made on account of Form 10 was not filed by the assessee but Form 10 was filed belatedly and the Competent Authority has condoned the delay and this addition was rightly deleted by the CIT(A). As regards addition of Rs.1,19,47,867/-, in the earlier Assessment Years i.e. Assessment Year 2009-10, 2012-13 to 2015-16, the Tribunal has decided this issue in favour of the assessee. The assessee is involved in the advancement of development in the field of vocational skills and the curriculum which is suitable for the existing vocational trades. This aspect has remained continuously similar in the present Assessment Year as well. Therefore, the CIT(A) has rightly deleted the addition. The Ld. AR further submitted that the CIT(A) has categorically mentioned that the cash deposits in question were made out of cash received from Industrial Training Institute towards fees for exams and other fees receiving from students and

colleges for conducting exams, seminars and other activities conducted by the assessee for students and other general public. The Ld. AR further submitted that all the relevant details related to the cash deposits in SBI as well as ledger and cash exam fees was submitted before the Assessing Officer as well as before the CIT(A). Thus, the CIT(A) has rightly deleted the addition as well.

7. We have heard both the parties and perused all the relevant material available on record. At no juncture the Ld. DR pointed out that the assessee's main object has changed from earlier Assessment Year 2009 till 2015-16 to that of the present Assessment Year 2016-17. Besides this, the assessee has filed the Form 10 and the delay in filing the said Form 10 has been condoned by the Competent Authority which was not disputed by the Id. DR. Thus, the addition of Rs.4,34,50,000/- under Section 11(2) of the Act was rightly deleted by the CIT(A). There is no need to interfere with the findings of the CIT(A). The CIT(A) has also given a categorical finding while deleting the addition of Rs.1,19,47,867/- under Section 11(1)(a) of the Act thereby following the principle of consistency as held in the earlier Assessment Years by the Tribunal. In this year, the Id. DR could not point out any distinguishing fact and, therefore, the CIT(A) has rightly deleted this addition. There is no need to interfere with the findings of the CIT(A). Thus, ground nos.1 to 5 are dismissed.

7.1 As regards ground no.6, the details given by the assessee related to cash deposits was totally overlooked by the Assessing Officer such as ledger and cash examination fees as well as deposits by the Colleges including that of cash deposits receipts. Thus, when the assessee has given sufficient evidence and the books of the assessee were not rejected or doubted, the CIT(A) has rightly deleted this addition and there is no need to interfere with the findings of the CIT(A). Thus, ground no.6 is dismissed. Therefore, ITA No.373/Ahd/2024 for Assessment Year 2016-17 filed by the Revenue is dismissed.

8. As regards ITA No.374/Ahd/2024 for Assessment Year 2017-18, ground nos.1 to 5 are identical to ground nos.1 to 5 of ITA No.373/Ahd/2024 for Assessment Year 2016-17 and, therefore, the finding given by us hereinabove applies for Assessment

Year 2017-18. Hence, ground nos.1 to 5 are dismissed. Thus, ITA No.374/Ahd/2024 for Assessment Year 2017-18 filed by the Revenue is dismissed

9. As regards ITA No.375/Ahd/2024 for Assessment Year 2018-19, ground nos.1 to 4 are identical to ground nos.1 to 4 of ITA No.373/Ahd/2024 for Assessment Year 2016-17 and, therefore, the finding given by us hereinabove applies for Assessment Year 2018-19. Hence, ground nos.1 to 4 are dismissed. Thus, ITA No.375/Ahd/2024 for Assessment Year 2018-19 filed by the Revenue is dismissed

10. In the result, all the three appeals filed by the Revenue are dismissed.

Order pronounced in the open Court on this 30th October, 2024.

Sd/-
(MAKARAND VASANT MAHADEOKAR)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 30th October, 2024

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Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad