

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C', NEW DELHI****BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR US, JUDICIALMEMBER****ITA No. 1528/DEL/2024  
(Assessment Year : 2017-18)****M/s Indian Society for technical Education ,  
ISTE Building, IIT Campus,  
Jeet Singh Marg, Katwaria Sarai,  
New Delhi-110016.  
(PAN: AAATI 2760 D)****Vs. Income Tax Officer,  
Ward Exemption 1(2),  
Delhi.**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Sanjay Agarwal, CA  
REVENUE BY : Shri Om Parkash, Sr. DRDate of Hearing : 16.10.2024  
Date of Order : 18.12.2024**ORDER****PER S. RIFAUR RAHMAN, AM :**

1. The captioned appeal preferred by the assessee is directed against the order of learned Commissioner of Income-tax (Appeals)-12, Mumbai (hereinafter referred to 'Ld. CIT (A)') dated 07.02.2024 in proceedings u/s 143(3) of the Income-tax Act, 1961 (for short 'the Act') for Assessment Year 2017-18. The assessee has raised following grounds of appeal:

*"1. That having regard to the facts and circumstances of the case and in*

*law, the CIT Appeal has erred in law and facts of the case in passing order u/s 250 in impulsive and imperious manner thereby dismissing the Appeal of the assessee with total lack of application of mind.*

*2. That having regard to the facts and circumstances of the case, Ld/- CIT has erred in law and facts of the case in dismissing the appeal by treating the Institutional Membership fees, Life Membership Fees and Award Fund as Revenue Receipt instead of Capital Receipt and that too by recording incorrect facts and findings and without observing the principles of natural justice.*

*3. That on the facts and circumstances of the case the appellant denies addition of Rs 1,96,54,650/- as made on account of Institutional Membership Fees and Life Membership Fees and Award Fund and accordingly denies its liability to pay Penalty and interest thereon.*

*5. The Appellant craves leave to add, modify, amend, delete or alter any of the grounds of appeal at the time of hearing and all the above grounds are prejudice to each other."*

2. At the time of hearing learned AR of the assessee brought to our notice that assessee is a trust registered u/s 12A of the Act vide order dated 05.08.1989 and also u/s 80G(5)(vi) vide order dated 12.08.2009. The assessee is undertaking the activity of technical education. He submitted that in the current assessment assessee has filed its return of income and claimed of membership fee of Rs. 1,73,47,550/-; institutional membership fees of Rs. 22,57,100/-; and award fund of Rs. 50,000/- as capital receipt a part of corpus fund. He submitted that during assessment proceedings the Assessing Officer has rejected the claim of the assessee and proceeded to treat the above fees are voluntary and revenue in nature and there is no specific direction as mandated u/s 11(1)(d) of the Act. He submitted

that the issue under consideration is settled in favour of the assessee. He brought to our notice coordinate bench decision in assessee's own case relating to assessment year 2012-13 in ITA no. 3280/Del/2017 and submitted that Hon'ble ITAT has considered similar issue under consideration and remitted the issue back to the file of Assessing Officer to consider the submissions of the assessee and verify the specific direction from the members of the society with regard to various fees collected from them. He further brought to our notice decision of NFAC Delhi in assessee's own case for assessment year 2012-13 and in the set aside order by Hon'ble ITAT, the learned CIT(A) considered the various submissions made by the assessee and decided the issue in favour of the assessee vide order dated 20.03.2024 and the above said order is placed on record. Further, learned AR submitted that similar issue was considered in subsequent assessment years 2014-15, 2015-16 and 2016-17 and allowed by learned CIT(A) in favour of the assessee. Therefore, he submitted that the issue under consideration is already settled in favour of the assessee and concept of consistency has to be maintained. However, in the present case the Assessing Officer has raised the similar issue which has already reached finality in favour of the assessee.

3. On the other hand, learned DR objected to the submissions of the learned AR and brought to our notice page 143 of the paper book which is the order passed by the CIT(A) for assessment year 2012-13 in which he brought to our notice

findings of the Assessing Officer which indicated that letters of confirmation from the members are cyclostyled letters prepared during the month of December 2011 for the fees collected during the previous year 2011-12 and in many such letters amounts are not mentioned which show that these letters were prepared haphazardly and it was only an afterthought. Further, he brought to our notice page 147 of the paper book in which, in the same order of the learned CIT(A), learned CIT(A) has accepted the directions of the ITAT, even though the material brought on record by the assessee were defective. He relied on the findings of the Assessing Officer.

4. In rejoinder, learned AR submitted that the issue under consideration was already considered by the Committee which was held on 03.07.2016 and a proper resolution was passed and the society has modified the Memorandum of Association and Rules. He brought to our notice Rule no. 2(ii) life membership. It was specifically indicated that life membership fee shall be part of the corpus fund of the society. Similar modification was also made in rule 2(v). Therefore, he submitted that the issue under consideration is settled in favour of the assessee and similar treatment may be allowed in the current assessment year also.

5. Considered the rival submissions and material placed on record. We observe that assessee is a charitable trust registered u/s 12A of the Act and it received membership fee and life membership fee during the year under consideration. The

assessee has treated the above said membership fee as part of corpus donation whereas the Assessing Officer in the absence of specific directions from the donors treated the same as revenue receipt. This issue was considered by the coordinate Bench in assessment year 2012-13 and remitted the issue back to the file of Assessing Officer for verification of the documents submitted by the assessee. In the set aside proceedings learned CIT(A) has considered the submissions in detail and allowed the same in favour of the assessee. We also notice that in subsequent assessment year the same claim was allowed by the learned CIT(A) in respective years till assessment year 2016-17. Further, we observe that in the current assessment year the assessee has submitted letters from the donors with a direction that this fee should be treated as corpus fund. However, in the subsequent meeting of the society they have amended the respective rules relating to collection of membership fee which should be treated as part of corpus fund. The relevant Memorandum of Association and Rules are placed on record which are amendments made in the year 2017. Since the issue under consideration is settled in favour of the assessee relying upon the orders passed in assessment years 2012-13 to 2016-17 and as per the concept of consistency and also observing that the relevant rules were modified by the society itself which shows that the funds received by the assessee only towards corpus funds, therefore, we are inclined to accept the submissions of the assessee and accordingly allow the grounds raised by

the assessee.

6. In the result, appeal filed by the assessee is allowed.

**Order pronounced in the open court on this 18<sup>th</sup> day of December, 2024.**

**Sd/-**  
**(YOGESH KUMAR US)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

**Dated : 18.12.2024**

**MP**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)-26, New Delhi.
5. DR: ITAT

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**