

**INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH "DB": AGRA
SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
(Through virtual hearing)**

**ITA No. 170/AGR/2024
(Assessment Year: 2017-18)**

Shri Chandra Bhan Singh Sikcha Samiti, Village-Mukhari, Post Gadshan, The-Kheragar, Agra-283124 (Appellant)	Vs.	ITO, Ward-2(1)(4), Agra (Respondent)
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PAN: AAFAS8963E

Assessee by :	None
Revenue by:	Shri Shalenndra Srivastava, Sr. DR

Date of Hearing	05/02/2025
Date of pronouncement	05/02/2025

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.170/AGR/2024 for AY 2017-18, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] dated 29.02.2024 against the order of assessment passed u/s 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 14.11.2019 by the Assessing Officer, ITO, Ward-2(1)(4), Agra (hereinafter referred to as 'ld. AO').

2. The assessee has raised the following grounds of appeal before us:-

"1. That the Ld. AO and NFAC both have erred in law as well as on facts while making addition ignoring the fact that the assessee is an educational institution and exempted from taxis 10623Cd). The ave runs various courses like High School, Senior Secondary School, Degree College etc. All courves numms under name of Shri Chandrabhan Singh Sikhaska Samiti, hence all the

fees received from different sources deposited in the account of Shri Chandrabhan Singh Siksha samiti.

2. That the learned AO and NFAC both erred on the facts that the assessee is an education institution, in which generally fees are received by the assessee in cash. The Learned AD and NFAC both considered the cash deposited during the Demonetisation period as income of the Assessee without considering the expenses out of It. All payments made from banks were out of the fees received in cash.

3. That NFAC have erred by confirming the addition of Rs. 63,30,500 while the addition as per original assessment order was Rs. 63,30,000.

4. That for the reasons discussed above and to be argued at the time of hearing, appellant pray for relief

5. That till the disposal of appeal, the appellant hereby prays for the stay of recovery of demand.

6. That The appellant craves leave to add or amend any grounds of appeal.”

3. None appeared on behalf of the assessee. We have heard the Ld DR and perused the materials available on record. The assessee is running an educational institution and claims exemption u/s 10(23C)(iiiad) of the Act. The assessee is a society registered under the Society Registration Act, 1860. It is primarily an educational institution and runs school upto 12th Standard and affiliated to U P Board. It also runs college (Mahavidyalaya) affiliated to Dr B R Ambedkar University, Agra and runs the courses of BA, BSc, B.Com, B.Ed etc. The assessee pleaded that fees received from offering different courses in the education stream were deposited in the bank accounts of the assessee. On perusal of the order of the Id NFAC, we find that the Id NFAC had merely reproduced the provisions of section 10(23C) of the Act fully and held that assessee had not produced evidence to prove whether its gross receipts exceed Rs 5 crores so as to claim exemption u/s 10(23C)(iiiad) of the Act. These facts could be easily verified from the income tax return of the assessee itself de hors the presence of the assessee.

Hence in our considered opinion, the presence of the assessee before the Id NFAC does not alter the basic position of the assessee that it is an educational institution. The dispute before us had to be resolved based on the verification of actual figure of gross receipts. If the gross receipts are less than Rs 5 crores, then the assessee would be eligible for automatic exemption u/s 10(23C)(iiiad) of the Act. Otherwise, the case had to be decided on merits. Hence in the interest of justice and fairplay, we deem it fit and appropriate to restore this appeal to file of Id NFAC for de novo adjudication in accordance with law. Needless to mention the assessee be given reasonable opportunity of being heard. The assessee is directed to cooperate with Id NFAC for expeditious disposal of the appeal by not taking unwarranted adjournments. Hence, the grounds raised by the assessee are allowed for statistical purposes.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 05/02/2025.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 05/02/2025
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi