

**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. 277/AGR/2024
(Assessment Year: 2016-17)**

ITO (Exemption), Agra	Vs.	Shri Chaudhary Beeri Singh Shiksha Samiti, 1, Sunder Bagh, Dayal Bagh, UP
(Appellant)		(Respondent)
		PAN: AADAS9168B

Assessee by :	Shri Rajendra Sharma, Adv
Revenue by:	Shri Shailendra Srivastava, Sr. DR
Date of Hearing	03/02/2025
Date of pronouncement	03/02/2025

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.277/AGR/2024 for AY 2011-12, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] dated 28.06.2024 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 31.03.2022 by the Assessing Officer, NFAC (hereinafter referred to as 'ld. AO').

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

"1. That the Ld. CIT(A), NFAC, has failed to appreciate the fact that the assessee did not furnish any documents regarding payment of various amounts in cash, viz Rs. 337000/ as the amount paid for purchase of stamp paper, Rs. 7000/- paid in cash to each of Sh. Sabhir Khan and Sh. Munna Khan, Rs. 20000/ as registration fees and Rs. 10000/- as fee paid to Advocate.

2. That the Ld. CIT(A), NFAC has failed to appreciate the fact that in spite of multiple opportunities being provided to it, the assessee could not explain the

discrepancy noted in the ledger accounts of new land & Shabhir Khan maintained by Chaudhary Beeri Singh College of Engineering & Management.

3. That the Ld. CIT(A), NFAC has failed to appreciate the fact that in spite of multiple opportunities, the assessee failed to establish the purpose of loan taken, ie whether it was used for accomplishment of the objects of the assessee society Further, whether after the purchase of land as claimed by assessee, it was actually used for society's objects or otherwise.

4. That the Ld. CIT(A), NFAC has failed to appreciate the fact that the ledger accounts submitted by the assessee do not show the valid transaction regarding transfer of land.

5. That the Ld. CIT(A), NFAC has failed to appreciate the fact that in spite of multiple opportunities, the assessee failed to explain the discrepancy that the cheque issued for purchase of land was issued by Chaudhary Beeri Singh Inter college while the land was purchased in the name of Chaudhary Beeri Singh Education Society.

6. That the Ld. CIT(A). NFAC has failed to appreciate the fact that in spite of multiple opportunities, the assessee failed to establish the application of loan with regard to the objects of the assessee society by submitting relevant documentary evidences.

7. That the Ld. CIT(A), NFAC has failed to appreciate the fact that the copy of sanction of loan, bank account statement and copy of ledger submitted do not substantiate to repayment of term loan made by the assessee.

8. That the order of the Ld. CIT(A), NFAC being erroneous in law and on fact be set aside and order of the AO be restored."

3. We have heard the rival submissions and perused the materials available on record. The Assessee is an Association of Persons (AOP) and had filed its return of income for the assessment year 16-17 on 31-03-2017 declaring nil income. The learned AO observed from the assessment order already framed under section 143(3) of the Act that Assessee had purchased a piece of land in the name of Shri Chaudhary Beeri Singh Education Society to the extent of 0.8750 hectares amounting to Rs. 48,14,000 and paid stamp duty of Rs. 3,37,000/-. The circle rate of that land was Rs. 55,00,000/- per hectare. The total cost of purchase of land was Rs. 51,51,000/- including stamp duty and the mode of payment of purchase of land was not mentioned

in the purchase deed. Since the learned AO had not verified the source of making investment in the land, the assessment already framed under section 143(3) of the Act was sought to be revised by the learned PCIT under section 263 of the Act by giving directions to the learned AO to examine the source. Similarly, the Assessee had considered a sum of Rs. 1,89,78,648/- on account of repayment of term loan as amount applied for charitable purposes. The learned PCIT in the revision order under section 263 of the Act observed that Assessee had not produced any documents related to the repayment of term loan and accordingly, set aside the assessment framed by the learned AO under section 143(3) of the Act to examine the aspect of repayment of term loan. Accordingly, the present assessment proceeding was framed in consequence to the revision order passed by the learned PCIT under section 263 of the Act.

4. It was submitted that Assessee is a educational charitable society duly registered with Registrar of Societies, Agra. A certificate of registration was placed on record before the learned AO. The list of educational institutions run by the Assessee Trust together with the details of those institutions affiliated with various universities were furnished in tabular form which are reproduced in pages 3 and 4 of the assessment order. It was also submitted that Assessee society is registered under section 12AA of the Act vide order dated 10-1-2012 issued by the Learned Commissioner of Income Tax-II, Agra. It was clarified before the learned AO that during the year under consideration, the Assessee has purchased a piece of land to the extent of 0.8750 square hectares for Rs. 48,14,000/- against the rate as prescribed by District Magistrate Agra for stamp duty value of Rs. 48,12,500 ($5500000 * 0.875$ hectares). The Assessee paid a sum of Rs. 3,37,000/- in cash towards purchase of stamp papers and Rs. 20,000/- for registration fees and 10,000/- for advocate fees. Accordingly, the total purchase value of land was Rs. 51,81,000/-. The Assessee enclosed

the entire ledger account of land as appearing in its books before the learned AO. The Assessee also furnished details that the said land was purchased from Mr. Shabir Khan and Mr. Munna Khan. The Assessee furnished the details of modes of payment for purchase of the land which are tabulated in page 5 of the assessment order. From the table, it could be seen that a sum of Rs. 48,00,000/- was paid through regular banking channels either by cheque or by RTGS on 20-10-2014 and 7-7-2015 by the Assessee. A sum of Rs. 14,000 was paid in cash on 7-7-2015 to the sellers of the land. Hence the total consideration paid was Rs. 48,14,000/-. The Assessee also explained the source of making such payments as emanating from its books of accounts. The Assessee even explained the object of purchase of land was for the purpose of expansion of college building and construction of students hostel and staff quarters.

5. Regarding repayment of term loan during the year of Rs. 1,89,78,648/-, the Assessee enclosed the loan sanction letter which the society had availed for construction of building and purchase of bus as under:-

Loan from Bank of Baroda – Rs. 5 crores, vide sanction letter dated 9-9-2008.

Loan from Mahindra and Mahindra – Rs 12 lakhs, vide sanction letter dated 9-5-2013.

6. The Assessee explained that during the year, it had paid Rs. 3,87,000/- being 12 installments of Rs. 32,250 each including interest (Principal Rs 3,22,093/- and interest of Rs 64,907/-) against bus loan to M/s Mahindra and Mahindra and repayment of term loan to Bank of Baroda to the tune of Rs. 1,86,56,555/-, which are tabulated in page 9 of the assessment order. Accordingly, the total repayment of loan made during the year was Rs.

1,89,78,648/-, which was claimed as utilization of funds applied for charitable purposes by the Assessee. The source of making payments for the repayment of term loans were duly drawn from the books of accounts maintained by the Assessee. The Assessee also submitted that the loans originally taken from Bank of Baroda was for construction of engineering college building, purchase of lab equipment and furniture and purpose of vehicle loan from Mahindra and Mahindra is for purchase of bus for transportation of students from their residence to college and back.

7. The Assessee also submitted that it had received unsecured loan of Rs. 12 lakhs from Mr. Ajay Singh and in support of which, the ledger account of Ajay Singh in the books of the Assessee, bank statement of the lender, copy of PAN and Aadhaar card of the lender, bank statement of Assessee were duly furnished before the Learned AO. The Assessee also clarified that for obtaining term loan of Rs. 5 crores from Bank of Baroda, it had mortgaged its existing immovable properties as primary security and collateral security, details of which are reflected in Page 10 of the assessment order.

8. The learned AO with regard to purchase of land observed that the ledger account submitted do not show the valid transaction regarding transfer of land. Further, he observed that the bank account is in the name of Chaudhary Beeri Singh Inter College, Agra and the cheque was issued by Chaudhary Beeri Singh Inter College, Agra but the land was purchased in the name of Shri Chaudhary Beeri Singh Education Society, Sunder bagh, Agra. Accordingly, he treated the investment made by the assessee for purchase of land as unexplained cash credit under section 68 of the Act.

9. With regard to repayment of term loan, the learned AO observed that the loan application made by the assessee for availing the loan was not submitted and hence the purpose of the loan for which it was availed could

not be established by the assessee with documentary evidences. Accordingly, he observed that assessee could not substantiate the repayment of term loan made in the sum of Rs 1,89,78,648/- which was also sought to be treated as unexplained cash credit under section 68 of the Act.

10. The Learned NFAC duly appreciated the contentions of the assessee and deleted the additions made by the Learned AO by observing as under:-

"4.3 Ground No. 2 & 3 are related to addition of Rs. 51,51,500/- as unexplained Rs. 51,5 cash credit u/s 68 of the IT Act. The AO only mentioned in the assessment order that the bank account is in the name of "Chaudhary Beeri Singh Inter College, Agra" and the cheque is also issued by the "Chaudhary Beeri Singh Inter College, Agra" but the land purchased is in the name of Shri Chaudhary Beeri Singh Education Society, Sundar Bagh, Dayal Bagh, Agra. In this regard, the Appellant submitted that the addition made by AO was on wrong assumptions and without appreciating the correct fact, as the cheque issued for purchase of land were issued from bank account of Chaudhary Beeri Singh Shiksha Samati not from Chaudhary Beeri Singh Inter College as mentioned in the order and for that reason the addition was made. The Appellant further submitted copy of Bank Account no 20040100101880 of UCO Bank Branch at Chaudhary Beeri Singh Inter College and Account Holder name Chaudhary Beeri Singh Shiksha Samati, from which the cheque were issued. Further, the AO has not proved that any unaccounted or unexplained money was deposited in the account of Inter collage and that money has been utilized to purchase the said property by the Appellant. Even if, it is assumed that the payment was made from the account of other entity, the AO is not justified to take the transactions as unexplained without making any enquiry. In view of the submissions of the Appellant and circumstances mentioned above, the addition made by the AO is not sustainable and hence deleted. These grounds of appeal are allowed."

"The Appellant submitted the copy of term loan account of bank of Baroda and its ledger account. The Appellant also submitted the bank statements of Chowdhary Bari Singh Inter Collage, Agra and bank statements of Sri Chowdhary Bin Singh Siksha Samiti, Agra to establish the source of the funds. The AD has not made any enquiry regarding source of these funds. The AD has made the addition without examination of the fund flow through the bank accounts. I carefully examined these bank statements and found that the repayments of the term loan have been made through the banking channel. After careful consideration of the submissions of the Appellant, I am of the view that the source of the repayment of the fund is explained satisfactorily."

Therefore, the addition made by the AO is not sustainable and hence deleted. These grounds of appeal are allowed."

11. From the details furnished by the assessee during the course of assessment proceedings, which have already been elaborated supra and the submissions made before the Learned NFAC which had been duly appreciated by the Learned NFAC in the instant case by making the relevant observations, which are reiterated supra, we do not find any infirmity in the order of the Learned NFAC. Infact we hold that the entire additions have been made by the Learned AO without even understanding the basic provisions of the Act and contrary to materials available on record. These deficiencies had been rightly set right by the Learned NFAC in the instant case. Accordingly, the grounds raised by the revenue are hereby dismissed.

12. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 03/02/2025.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:03/02/2025
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi