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IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं /**ITA No.41/Hyd/2025**
(निर्धारण वर्ष/Assessment Year:2018-19)

M/s. APEA & OEW Fund Trust, Hyderabad. PAN:AABTA6286F	**Vs.**	Dy. Commissioner of Income Tax, (Exemption), Circle-1(1), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri P. MuraliMohan Rao, C.A.	
राजस्व द्वारा/Revenue by::	Shri B. Bala Krishna, CIT-DR	
सुनवाई की तारीख/Date of hearing:	26/03/2025	
घोषणा की तारीख/Pronouncement:	22/04/2025	

आदेश/ORDER

PER MADHUSUDAN SAWDIA, A.M.:

This appeal is filed by M/s. APEA & OEW Fund Trust ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), dated 13.11.2024 for the A.Y. 2018-19.

2. The assessee has raised the following grounds :

1.	The order of the Ld. CIT(A) u/s 250 of the Act dt. 13.11.2024 is erroneous both on facts and in law to the extent the order is prejudicial to the interests of the appellant.
2.	The Ld. CIT(A) erred in dismissing the appeal.
3.	The Ld. CIT(A) ought to have annulled the order u/s 143(3) dated 25.03.2021.
4.	The Ld. CIT(A) erred in sustaining the addition of Rs. 14,34,99,307/- towards Donations received by the assessee trust without considering the facts of the case.
5.	The Ld. CIT(A) ought to have appreciated that the donations received by the assessee trust are to be treated as corpus fund as required u/s 12(1) of the Act, but not as the income of the trust for the year under consideration.
6.	The Ld. CIT(A) ought to have appreciated that the donations received by the assessee trust as per the directions of Hon'ble Supreme Court, come under "Grant-in-aid", that they are to be treated as Corpus funds and that they are exempt from income.
7.	The Ld. CIT(A) ought to have appreciated that as per Clause 5(a) of Page no. 7 of the Trust Deed, it is clear that all the donations received cannot be used during the course of its activities and that interest earned on such donations can be used for its activities, which tantamounts that the said donations represent Corpus Fund only.
8.	The Ld. CIT(A) ought to have appreciated that when the contributions/Donations received by the trust are in the nature of Corpus fund as per the bye-laws of the Trust Deed, the applicability of provisions of section 2(24)(iia) of the Act does not arise.
9.	The Ld. CIT(A) ought to have appreciated that according to the directions of Hon'ble Supreme Court of India, the donations received are in the nature of Grant-in-aid, which tantamounts to voluntary contributions made with a specific direction and which shall form part of corpus fund of the assessee trust, thereby the provisions of

	section 12(1) of the Act are not applicable for treating the corpus fund as the income of the assessee.
10.	The Ld. CIT(A) erred in not appreciating the fact that in the assessee's own case for the AY 2016-17, when similar issue has arisen, the Ld. CIT(E) has deleted the addition made, for the Asst. year 2016-17.
11.	Without prejudice to any other grounds, the Ld. CIT(A) ought to have appreciated that as the assessee trust is registered u/s 12AA of the Act, even if the assessing officer has made an addition to the total income of the assessee trust, the assessee trust is eligible to claim exemption by virtue of the section 11(1)(d) of the Act.
12.	Appellant may, add or alter or amend or modify or substitute or delete and/ or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.

3. The brief facts of the case as culled out from the record are that, the assessee is a trust formed under statutory enactment of Government of Andhra Pradesh under Section 161 of the Andhra Pradesh Religious Institutions and Charitable Endowment Act, 1987. The purpose of the trust is to constitute and administer a welfare fund for Archakas and other employees. As per the statutory mandate, every religious charitable institutions other than Tirumala Tirupathi Devasthanam ("TTD") whose annual income exceeds Rs.20 lakhs are liable to contribute annually 3% of their income to the said Trust. However, TTD is to contribute such sum as the government may specify from time to time. Consequently, the assessee received Rs.14,34,99,307/- ("contributions") from various religious institutions during the year under consideration. The assessee is not permitted to utilise

the contributions towards it's object. The assessee had to deposit such receipts in a separate account and is permitted to utilise the interest earned from such deposits towards the objects of the trust. Accordingly, the trust treated the entire contributions of Rs.14,34,99,307/- as corpus fund. During the assessment proceedings, the Ld. AO contended that any receipt to be treated as corpus fund, it must be voluntary and should be accompanied by a specific direction from the donor. Since the contributions were made compulsory under statutory mandate, the Ld. AO held that the same need not be treated as corpus donation and consequently, added the entire contributions of Rs.14,34,99,307/- to the total income of the assessee. During the first appellate proceedings, the Ld. CIT(A) also upheld the view of the Ld. AO.

4. Aggrieved with the order of Ld. CIT(A), the assessee is in appeal before us. The only contention of the assessee before us was that, the assessee trust has been incorporated under the statutory enactment of Government of Andhra Pradesh and as per the mandate, the assessee is not eligible to utilise any amount out of the contributions received from the religious institutions. The assessee is only eligible to utilise the interest income earned on the deposit of such contributions. As the assessee has no power / liberty to utilise the amount of contributions towards it's objectives, the same is in the nature

of capital receipt and is not in the nature of income. The Ld. AR also submitted that the Ld. AO for A.Y. 2016-17 in the rectification order passed u/s.154 r.w.s. 143(3) of the Act dated 30.01.2019 and for A.Y. 2023-24 in the order passed u/s.143(3) r.w.s. 144B of the Act on 06.03.2025 has accepted the contributions received by the assessee as corpus fund. Accordingly, the Ld. AR submitted that, the Ld. AO for A.Y. 2018-19 cannot be allowed to take a different view what he has adopted for A.Y. 2016-17 and 2023-24. In alternate submission, the Ld. AR submitted that, the main reason for not treating the contributions as corpus fund by the Ld. AO is that the contributions are not voluntary and accordingly, the Ld. AO treated the same as income of the assessee. In this regard, the Ld. AR invited our attention to section 11(1)(a) of the Act and section 12(1) of the Act and submitted that, the income which is derived from the property held under trust or any voluntary contribution received by trust is liable to be considered as income in the hands of the assessee. The contributions received by the assessee from various religious institutions are not in the nature of income from property held under trust. However, the same are in the nature of contribution received by the trust, which in the opinion of the revenue authority is not voluntary. As per the mandate of section 12(1), any contribution which is voluntary, can only be treated as income in the hands of the assessee. As the Ld. AO contended that

the contributions received by the assessee is not voluntary, then it cannot be treated as income in the hands of the assessee u/s.12(1) of the Act also. Finally, the Ld. AR submitted that, the contributions received by the assessee is not taxable in the hands of the assessee.

5. Per contra, the Learned Department Representative ("Ld. DR") relied on the order of revenue authorities.

6. We have heard the rival contentions and also gone through the record in the light of the submissions made by either side. There is no dispute about the fact that the assessee is formed under the statutory enactment of the Government of Andhra Pradesh for the welfare of Archakas and other employees. As per the statutory mandate, all the religious charitable institutions, other than TTD whose annual income exceeds Rs.20 lakhs are liable to contribute annually 3% of their income to the assessee. However, TTD is to contribute such sum as the government may specify from time to time. As per the statutory mandate the assessee is not eligible to utilise such contributions towards it's object and the assessee had to deposit such receipts in a separate account. The assessee is only eligible to utilise the interest earned from such deposits towards the objects of the trust. Accordingly, the assessee treated the entire contributions of Rs.14,34,99,307/- as corpus fund. In our considered view, corpus donations need not arise from voluntary

contributions in a narrow sense, particularly where the receipt is tied to a specific purpose, hence, the donor's intention is clear that the contribution will form part of the capital of the trust. In the case before us, it is crucial to note that the statute itself create a compulsory frame work of corpus accumulation, with express stipulation that only the interest income can be spent for welfare purposes. Therefore, in our view the fact that the statute itself characterised the fund to be accumulated and not spent (except interest), clearly shows that it is of capital nature. The contributions received by the trust are earmarked for the corpus by the force of law itself and the absence of individual voluntary intent of donor is over-riden by the statutory character and objective of the fund. Therefore, the condition of a specific direction is deemed to be fulfilled under the statutory mandate.

6.1 Even otherwise, assuming for the sake of argument that the contributions received are not voluntary, as contended by the Ld. AO, such contributions in our opinion would fall outside the scope of section 12(1) of the Act. It is crucial to reproduce provisions of section 11(1)(a) and section 12(1) of the Act, which is to the following effect :

> ***"Income from property held for charitable or religious purposes.***
>
> ***11.*** *(1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—*

(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;

Income of trusts or institutions from contributions.

12. *(1) Any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly."*

6.2 On perusal of above, we found that as per combined reading of section 11(1)(a) and section 12(1) of the Act, the income which is derived from the property held under trust or any voluntary contribution received by trust is liable to be considered as income in the hands of the assessee. The contributions, which the assessee has received from various religious institutions are not in the nature of income from property held under trust. However, the same are in the nature of contributions received by the trust, which in the opinion of the revenue authority is not voluntary. As per the mandate of section 12(1), any contribution which is voluntary, can only be treated as income in the hands of the assessee. As the Ld. AO contended that the contribution received by the assessee is not voluntary, then it cannot be treated as income in the hands of the assessee u/s.12(1) of the Act also.

Hence the contributions received by the assessee is not taxable in the hands of the assessee. Therefore, in our considered opinion, if a contribution is not voluntary, it cannot be taxed as income u/s.11 r.w.s. 12(1) of the Act. Therefore, on this count also, the contribution of Rs.14,34,99,307/- received by the assessee cannot be treated as income in the hands of the assessee.

6.3 In view of the above findings, we hold that, the contribution of Rs.14,34,99,307/- received by the assessee constitutes corpus within the meaning of the statutory frame work and cannot be treated as income. Even if the receipts are held to be non-voluntary, the same would fall outside the ambit of section 12(1) of the Act and therefore, cannot be treated as income u/s.11 of the Act. Accordingly, the addition made by the Ld. AO is directed to be deleted.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 22nd April, 2025.

Sd/-	**Sd/-**
(**RAVISH SOOD**) JUDICIAL MEMBER	(**MADHUSUDAN SAWDIA**) ACCOUNTANT MEMBER

Hyderabad.
Dated: 22.04.2025.

** Reddy gp*

Copy of the Order forwarded to :

1. M/s. APEA and OEW Fund Trust, C/o P. Murali & Co., C.As, 6-3-655/2/3, Somajiguda, Hyderabad-500082
2. DCIT, (Exemptions), Circle 1(1), Hyderabad..
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. Guard file.

BY ORDER,