

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH**

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 176/Coch/2025
Assessment Year: 2017-18**

Share and Care Charitable Society Appellant
Eden Building, Pallithazhe Junction
Kaipuzha, Kottayam 686602
[PAN: AAMAS4316G]

vs.

ITO (Exemption) , Kottayam Respondent

Appellant by: Shri Anil Kumar P.J., Advocate
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 28.04.2025
Date of Pronouncement: 30.04.2025

ORDER

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), Bhubaneswar [CIT(A)] dated 17.11.2024 for Assessment Year (AY) 2017-18.

2. The appellant is a charitable trust duly incorporated under the Trust Act. The trust was founded with the object of providing medical and financial support to the poor. It is duly registered u/s. 12A of the Income Tax Act, 1961 (the Act). The return of income for AY 2017-18 was filed on 25.10.2017 declaring Nil Income after claiming exemption u/s. 11 of the Act. Against the said return of income, the assessment was completed by the Income Tax Officer (Exemption), Kottayam

(hereinafter called "the AO") vide order dated 14.11.2019 passed u/s. 143(3) of the Act at a total income of Rs. 13,42,639/-. While doing so, the AO brought to tax the voluntary contribution of Rs. 17,88,144/- claimed as corpus donation by holding that there is no evidence to show that the donations were corpus donations.

3. Being aggrieved, an appeal was filed before the CIT(A), contending that the corpus donations do not form part of taxable income. However, the CIT(A) confirmed the action of the AO in the absence of any evidence to show that the donations were received towards corpus fund.

4. Being aggrieved, the appellant is in appeal before the Tribunal in the present appeal.

5. At the outset, I find that there is a delay of 27 days in filing the present appeal. The appellant filed a petition along with an affidavit seeking condonation of delay in filing the appeal, wherein it is stated that trust failed to notice the order as it was uploaded in the portal and not served through email. Therefore, the delay is not willful or deliberate. Therefore it is prayed that the delay in filing the appeal may be condoned and the appeal may be admitted for adjudication. On a perusal of the averments made in the condonation petition, it is evident that the appellant is prevented by reasonable cause from filing the appeal. Therefore, I condone the delay and admit the appeal for adjudication.

6. The learned counsel for the assessee contended that the donations were received towards corpus fund and filed certain evidences in the

form of Associate Membership Fee received through application form. It is stated that the charity amount given through application form will form part of the corpus fund of the trust.

7. On the other hand, the learned Sr. DR, placing reliance on the orders of the lower authorities submits that no interference is called for.

8. I heard the rival contentions and perused the material available on record. The solitary issue that arises for my determination is whether the donations were received through corpus fund or not. There is no doubt that the donations received towards corpus fund cannot form part of the income of the trust. Therefore, the moot question is whether the donations received were towards corpus fund, unless the donors give the donations with a specific direction that the donation is towards corpus fund, the same does not constitute part of corpus fund. Therefore, it is a question of fact which is required to be determined by examining evidence and receipts of the donations received. Therefore, the matter is restored back to the file of the AO to examine the evidence and reach a conclusion whether the donations are corpus fund or not.

9. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced in the open court on 30th April, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 30th April, 2025

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin