

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA**

**BEFORE SHRI RAJESH KUMAR, AM  
AND**

**SHRI SONJOY SARMA, JM**

**ITA No.55/KOL/2025**

**(Assessment Year:2022-23)**

**Cossimbazar Social Welfare  
And Development Trust**

Cossimbazar, Berhampore,  
Murshidabad,  
West Bengal, 742103

**(Appellant)**

**ITO, Ward - 56(3)**

10, Middleton Row, Kolkata,  
West Bengal, 700071

**Vs.**

**(Respondent)**

**PAN No. AABTC3854H**

**Assessee by** : Shri S.K. Tulsiyan, AR

**Revenue by** : Shri Puja Somani, DR

**Date of hearing:** 06.05.2025

**Date of pronouncement :** 15.05.2025

**ORDER**

**Per Rajesh Kumar, AM:**

This is the appeal preferred by the assessee against the order of the Commissioner of Income-tax (Appeals) ADDL/ JCIT(A) Mysore, (hereinafter referred to as the "Ld. CIT(A)") dated 11.12.2024 for the AY 2022-23.

02. At the time of hearing, the assessee has raised additional ground which is extracted below:-

*"(1) That, on the facts and circumstances of the case and in law, the Id. AO, CPC, Bangalore made a mistake in as much as it Computed the Revenue Expenditure at ₹1,35,17,723/- and Capital Expenditure at ₹6,10,177/- aggregating to ₹1,41,27,960/- in Annexure-Schedule ER in the Intimation of Income but failed to consider the said application of income at Point no.6 while computing the total income at ₹1,41,27,960/ and raised a demand of ₹56,48,260/- on the assessee."*

03. The Id. Counsel for the assessee submitted before the Bench that the issue raised in the additional ground qua the failure on the part of the Id. AO CPC to take into account the application of income while passing the intimation u/s 143(1) of the Act dated 31.03.2023.
04. The facts in brief are that the assessee is a social welfare and development trust and runs a educational institution. The trust is registered with the Additional District Sub-Registrar, Berhampore. The books of accounts were properly maintained and duly audited by the chartered accountant. The return of income was filed along with audit report in form 10BB, declaring nil income. The trust is also granted provisional registration u/s 12A of the Act on 27.05.2021 from A.Y. 2021-22 to 2023-24, vide order dated 27.05.2021, by Pr. Commissioner of Income Tax. Besides, the assessee was granted a provisional approval u/s 80G(5) of the Act. During the year the assessee incurred revenue expenditure of ₹1,35,17,723/- and capital expenditure of ₹6,10,177/- aggregating to ₹1,41,27,960/- which was claimed by the assessee as application of income against the total receipts of ₹1,41,27,960/-. All these facts were available in the order passed u/s 143(1) of the Act dated 31.03.2023. Therefore, the issue raised by the assessee does not require any further clarification on facts and all the facts are available in the appeal folder itself. Therefore, we are inclined to admit the additional ground raised by the assessee.
05. The Id. AR vehemently submitted before us that while passing the order u/s 143(1), the total receipt of the trust was shown at ₹1,41,27,960/-, which was claimed to be spent for incurring the revenue expenditure to the tune of ₹1,35,17,723/- and capital expenditure of ₹6,10,177/-. However, the Id. AO / CPC while

processing the return of income failed to consider the application of income of ₹1,41,27,960/- out of the total receipts thereby assessing the income at Ra. 1,41,27,960/- resulting into raising of income tax demand of ₹56,48,260/-.

06. In the appellate proceedings, the Id. CIT (A) simply dismissed the appeal of the assessee by observing that assessee has failed to furnish the complete copy of the order passed u/s 143(1) of the Act dated 31.03.2023 and thus, upheld the order u/s 143(1) passed by AO CPC.
07. The Id. AR vehemently submitted before us that the order passed by the Id. AO as well as Id. CIT (A) are not maintainable on the ground of not considering the application of income and therefore, may kindly be reversed.
08. The Id. DR on the other hand submitted that the assessee has not filed the complete copy of the order u/s 143(1) of the Act before the Id. CIT (A) and therefore, the Id. CIT (A) could not take cognizance of the fact that the application of funds by the trust were completely ignored while passing the order u/s 143(1). Therefore, prayed that the issue may be restored to the file of the Id. CIT (A).
09. After hearing the rival contentions and perusing the materials available on record, we find that in this case, the assessee is a registered trust u/s 12A of the Act and have been granted registration u/s 80G(5) of the Act too. During the year the assessee's total receipts were 1,41,27,960/- out of which assessee incurred revenue expenditure of ₹1,35,17,723/- and capital expenditure of ₹6,10,177/- aggregating to ₹1,41,27,960/-. In other words, the total receipts were spent on the charitable purposes and thus, assessee was not having any net surplus during the year. From the perusal of order u/s 143(1)

of the Act, we observed that though the assessee has disclosed all the facts qua the gross receipts as well as application of funds in the return of income, the Id. AO CPC failed to consider the application of funds to the tune of ₹1,41,27,960/-, resulting into assessment of income of the trust at gross receipts i.e. ₹1,41,27,960/-. The order of the Id. AO CPC is apparently wrong and against the facts and information disclosed by the assessee in the return of income. In the appellate proceedings, the Id. CIT (A) simply dismissed the appeal on the ground that the assessee has not furnished complete copy of the order u/s 143(1) of the Act. We note that the restoration of issue to the file of the Id. CIT (A) would not serve any meaningful purpose as this is a open and shut case before us. The assessee is running a educational institution and income is exempt u/s 11 of the Act. We note that the gross receipts of the assessee was ₹1,41,27,960/- and the application of funds were also to the tune of ₹1,41,27,960/- comprising revenue expenditure of ₹1,35,17,723/- and capital expenditure of ₹6,10,177/-. Considering these facts on record, we are inclined to set aside the order of Id. CIT (A) and direct the Id. AO to allow the application of funds to the tune of ₹1,41,27,960/-. Needless to say that the income of the assessee is to be assessed as ₹nil. The appeal of the assessee is allowed.

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

Order pronounced in the open court on 15 May 2025

Sd/-  
(SONJOY SARMA)  
(JUDICIAL MEMBER)

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Kolkata, Dated: 15 May 2025

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Kolkata