



IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1429/PUN/2024
Assessment Year : 2021-22

BK Educational and Welfare Society, 1 Bhengade Niwas, Kranti nagar, Makhmalabad Road, Nashik 422 003 Maharashtra PAN : AACTB1266D	Vs.	ITO (Exemption), Ward-1(1), Nashik
Appellant		Respondent

Appellant by	:	Shri Sanket Joshi
Respondent by	:	Mrs. Indira Adakil
Date of hearing	:	06.05.2025
Date of pronouncement	:	16.05.2025

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The captioned appeal at the instance of assessee pertaining to A.Y. 2021-22 is directed against the order dated 03.05.2014 framed by National Faceless Appeal Centre, Delhi u/s.250 of the Income-tax Act, 1961 (in short 'the Act') arising out of the Assessment order dated 18.12.2022 passed u/s.143(3) r.w.s.144B of the Act.

2 Brief facts of the case are that the assessee is a charitable trust and registered under the Bombay Public Trusts Act, 1950 vide registration certificate dated 30.05.2011. Return of income for A.Y. 2021-22 furnished on 19.10.2022. Audit Report on Form No.10AD which was due



to be filed on 15.01.2022 was furnished on 04.10.2022. Assessee has been granted provisional registration u/s.12AB effective from A.Y. 2021-22 to A.Y.2023-24 and therefore for A.Y. 2021-22 it is considered to be registered u/s.12A of the Act. Case selected for scrutiny under CASS followed by validly serving of notices u/s.143(2) and 142(1) of the Act. Various details called for by ld. AO were submitted by the assessee. However, ld. AO concluded the assessment after making certain additions u/s.68 of the Act and also made disallowance u/s.11(1) of the Act determining income of Rs.41,50,100/.

3. Assessee challenged the additions made by ld. AO before ld.CIT(A) and partly succeeded. Now the assessee is in appeal before ld.CIT(A) raising following grounds of appeal :

“1. The learned CIT(A) erred in confirming the addition u/s 68 of Rs.2,51,000 made by the A.O. by treating donation received from trustee, Dr. Bhagwan Nivrutti Elmane as unexplained cash credit without appreciating that the said addition made u/s 68 was not justified on facts and in law.

2. The learned CIT(A) erred in confirming the addition u/s 68 of Rs. 1,10,000 made by the A.O. by treating donation received from Mr. Bhagwan Dnyanoba Sanap as unexplained cash credit without appreciating that the said addition made u/s 68 was not justified on facts and in law.

3. The appellant craves leave to add/ alter/ amend any of the grounds of appeal.

4. Ld. Counsel for the assessee submitted that impugned addition u/s.68 of the Act towards the amount of Rs.2,51,000/- received from Dr. Bhagwan Nivrutti Elmane is uncalled for because Dr. Bhagwan Nivrutti Elmane has given confirmation of having given the said donation and he also accepted the same before the AO in the statement recorded



on 09.12.2022. As regards the donation of Rs.1,10,000/- received from Mr. Bhagwan Dnyanoba is concerned, he submitted that the said amount has also been confirmed by the payer. However, there is no other detail available. Assessee further submitted that even if the amount of Rs.1,10,000/- is considered as an anonymous donation u/s.115BBC of the Act and that since the application of the alleged sum for charitable purposes is not in dispute therefore as per the provisions of section 115BBC(1)(i)(B), only the amount in excess of Rs.1.00 lakh can be subjected to tax @30% for which the assessee has no objection.

5 On the other hand, Ld. Departmental Representative vehemently argued supporting the orders of the authorities below.

6. We have heard the rival submissions and perused the record placed before us. The only dispute for our consideration is whether ld.CIT(E) erred in confirming the addition u/s.68 of the Act for the following amounts received as donation in cash :

1. Dr. Bhagwan Nivrutti Elmane – Rs.2,51,000/-
2. Mr. Bhagwan Dnyanoba – Rs.1,10,000/-

7. So far as donation received from Dr. Bhagwan Nivrutti Elmane is concerned, we find that assessee has furnished various documents in the paper book explaining the genuineness of the said donation. We find that the confirmation has been placed at page 10 of the paper book along with PAN detail and Aadhar is also mentioned. Further from perusal of pages 13 and 14, we notice that statement



was recorded on 09.12.2022 u/s.131(1)(b) by Id. ITO, Verification unit-1(1)(2), Nashik and in reply to Question No.6 alleged donor has admitted that he has income from agriculture and from personal coaching and he has given donation of Rs.2,51,000/- in cash to the assessee. Now once the donor has given the confirmation and also accepted to have given donation to the assessee along with the source of income, burden of proof stands discharged by the assessee and the same shifts on to the Revenue. In case Revenue was not satisfied with the confirmation and statement given by Dr. Bhagwan Nivrutti Elmane, then they should have taken action against the alleged donor for giving false statement. However, in absence of any such action on the part of Revenue, we find that assessee has successfully explained the nature and source of the alleged donation received from Dr. Bhagwan Nivrutti Elmane during the year and the same cannot be taxed u/s.68 of the Act. Therefore, the addition u/s.68 of the Act at Rs.2,51,000/- is hereby deleted. Ground No.1 raised by the assessee is allowed.

8. Next is the cash donation received from Mr. Bhagwan Dnyanoba at Rs.1,10,000/-. This donation has also been received in cash. Apart from confirmation letter of Mr. Bhagwan Dnyanoba, there is no other document to justify the source of income. In this case, no statement was taken by the AO. It is also observed that the amount received as donation during the year has been applied for charitable purposes and the same is not in dispute at the end of Revenue authorities. Income-tax return along with Audit Report of the assessee society has been filed. Now once the assessee is unable to prove the detail of alleged donation,



section 115BBC of the Act can be invoked which is regarding anonymous donation to be taxed in certain cases. For the sake of convenience, section 115BBC is reproduced below :

“Anonymous donations to be taxed in certain cases.

115BBC. (1) *Where the total income of an assessee, being a person in receipt of income on behalf of any university or other educational institution referred to in sub-clause (iiiad) or sub-clause (vi) or any hospital or other institution referred to in sub-clause (iiiiae) or sub-clause (via) or any fund or institution referred to in sub-clause (iv) or any trust or institution referred to in sub-clause (v) of clause (23C) of section 10 or any trust or institution referred to in section 11, includes any income by way of any anonymous donation, the income-tax payable shall be the aggregate of—*

(i) *the amount of income-tax calculated at the rate of thirty per cent on the aggregate of anonymous donations received in excess of the higher of the following, namely:—*

(A) *five per cent of the total donations received by the assessee; or*

(B) *one lakh rupees, and*

(ii) *the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of anonymous donations received in excess of the amount referred to in sub-clause (A) or sub-clause (B) of clause (i), as the case may be.*

(2) *The provisions of sub-section (1) shall not apply to any anonymous donation received by—*

(a) *any trust or institution created or established wholly for religious purposes;*

(b) *any trust or institution created or established wholly for religious and charitable purposes other than any anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution.*

(3) *For the purposes of this section, "anonymous donation" means any voluntary contribution referred to in sub-clause (iia) of clause (24) of section 2, where a person receiving such contribution*



ITA No.1429/PUN/2024
BK Educational and Welfare Society

does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars as may be prescribed.”

9. Now from perusal of the above section, we find that sub-section (1)(i)(B) of section 115BBC applies on the given facts of the case as the donation received has been applied for charitable purposes but since it is held to be anonymous donation, only the amount in excess of Rs.1.00 lakh can be taxed @30%. We therefore are of the considered view that out of Rs.1.10 lakh only Rs.10,000/- can be subjected to tax as per the provisions of section 115BBC of the Act as we have treated Rs.1.10 lakh of cash donation as anonymous donation. Ground No.2 raised by the assessee is partly allowed.

10 In the result, appeal of the assessee is partly allowed.

Order pronounced on this 16th day of May, 2025.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 16th May, 2025.

Satish

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “SMC” बेंच, पुणे / DR, ITAT, “SMC” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.