

आयकरअपीलीयअधिकरण, राँचीन्यायपीठ,राँची
IN THE INCOME TAX APPELLATE TRIBUNAL RANCHI BENCH, RANCHI
BEFORE SHRI GEORGE MATHAN, JM
AND
SHRI RATNESH NANDAN SAHAY, AM

(THROUGH : HYBRID MODE)
आयकरअपीलसं./ITA No.24/RAN/2020
(निर्धारणवर्ष / A.Y. :2016-2017)

ACIT, Exemption Circle, Ranchi	Vs.	M/s RVS Educational Trust, C/o Binda Apartments (India) Private Limited, Siroman Nagar, Dimna Road, Mango, Jamshedpur-831012
स्थायीलेखासं /PAN No. : AAATR4456M		
(अपीलार्थी/ Appellant)	..	(प्रत्यर्थी / Respondent)

राजस्वकीओरसे /Revenue by	:	Shri Shiv Swaroop Singh, CIT-DR
निर्धारितीकीओरसे /Assessee by	:	Shri Shikesh Jha, AR

सुनवाईकीतारीख/ Date of Hearing	:	21/05/2025
घोषणाकीतारीख/ Date of Pronouncement	:	21/05/2025

आदेश / O R D E R

Per Bench :

This is an appeal filed by the revenue against the order of the Id. CIT(A), Jamshedpur, dated 05.12.2019, passed in Order No.ITBA/APL/S/250/2019-20/1021701131(1) for the assessment year 2016-2017.

2. The assessee has filed written submissions consisting of 7 pages as follows:

1. That Assessee is an Educational Trust, and registered u/s 12AA of the Income Tax Act. 1961 at the office of the C.LT -Jamshedpur, bearing registration no. VII-49/2002-03 date 17-07-2003. A copy of registration certificate enclosed herewith and marked annex-1

2. That the assessee trust runs educational institutions in the name of the following:-

- (i) R.V.S. College of Engineering & Technology.
- (ii) R.V.S. International School.
- (iii) R.V.S. Academy.
- (iv) R.V.S. Hostel.

3. That the Ld. A.O. passed assessment order u/s 143(3) on 21-12-2018 and the following additions were made:-

- (i) Rs.1,70,87,735/ Discussed and named as carry forward and set-off the excess application of income.
- (ii) Rs.1,72,47,113/-Discussed and named as Repayment of Loan. Rs.1,72
- (iii) Rs.4,39,31,322/-Discussed and named as Capital expenditure.
- (iv) Rs.69,66,832/ Discussed and named as Advertisement expenses.

4. That the Ld. CIT in his order dated 5.12.2019 confirm the disallowances Rs.1,70,87,735/- and deleted all other disallowances. Now Department is in appeal before your honour for adjudicating the followings.

(i) Repayment of Loan for Rs.1,72,47,113/-

(a) That the assessee trust has maintained separate books of account for all units and also submitted before Ld. A.O. during the course of assessment proceedings. Further the term loan from bank had been taken to acquire/construction of assets of the Trust/ Institution. It is an admitted fact that the trust is required to construct the educational building/ machinery and Equipment for the purpose of carrying out the objects of the trust. It has become necessary to construct the building and acquire the necessary equipment so as to earn income by exploiting the property for the purpose of putting up the construction of property and acquiring the machinery and equipment held in trust, the trust borrowed fund from the bank. Thus the capital assets so put up by the borrowed fund is only for the purpose of augmenting income in order to carry out the objects of the trust. It is clear from the assessment order that the Ld. Assessing office has not adverted to the object of the charitable trust.

(b) That in this regard it is humbly submitted that R.V.S college of Engineering and Technology has repaid loan to the bank to the

tune of Rs.1,72,47,113/-to the financial institution and R.V. S. International School has repaid to the tune of Rs.6,53,214/- to the financial institution. (Total amount Rs.1,79,00,327/-) during the year which is under consideration. Details of term loan along of with copy of ledger for both units are enclosed herewith and marked annex-23.

(c) That Ld. A.O. has not allowed repayment of loan as an application of income. The observation of Ld. A.O. is that "Repayment of loan forms a part of the balance sheet and is reflected on the 'Asset side and if the repayment of loan is on account of repayment from Corpus, Capital Fund, Borrowed funds, Sundry Creditor, from loans, accumulated fund, the same is reflected on the Liability Side and it is not allowable by virtue of provisions of Sec.11(1)(d) of the Act, Since corpus fund dose not form part of 'total income', therefore expenditure out of corpus fund will not be a part of application of income', But in the given case, the said balance sheet is silent on the huge repayment of Loan, so the said payment cannot be verified and established."

(d) That the Ld. A.O. have mentioned in the assessment order that repayment of loan form forms a part of the balance sheet and is reflected on the assets side of the balance sheet but fact is that we have shown the loan in the liabilities side not in the asset side we have already submitted the details of loan. We have paid the loan from the current year income. The Ld. A.O. has mentioned in the assessment order that we have paid the installment of the loan out of corpus fund, borrowed fund, sundry creditors, form loan, form accumulated fund. But the fact is that we have not received any corpus fund during the F/Y2015-16

(e) That the Loan form bank clearly showing in the liability side of the balance sheet but the Ld. A.O. did not apply his/her mind to verify the truth. If any one will compare the balance sheet of two year then every person will come to know that the loan has been shown in the balance sheet or not.

(f) That since the loan has been taken for the purposes of incurring expenditure for charitable purpose in a particular year and the loan is repaid out of the income of the subsequent year, the said repayment would be entitled to the exemption u/s 11(1)(a) of the Act.

(g) That the CBDT vide circular no.100 dated 24 January 1973 has held that repayment of loan originally taken to fulfill one of the objects of the trust will amount to an application of income for charitable and religious purpose.

(h) That Hon'ble Gujarat High Court in Shri Plot Swetamber Murti Pujak Jain Mandal, after taking note of CBDT circular, held that loan taken in the earlier year and repaid in subsequent year out of the

income of the trust in the year will amount to application of income for the purpose of section 11(1)(a) of the Act. Similar view has been taken by the Hon'ble Rajasthan High Court in Maharana of Mewar Charitable Foundation. In the case of Hon'ble Delhi Court in the case of DIT (E) Vs span foundation 178 Taxman, 436(Del), it was held that on payment of funds borrowed for construction of the building was to be treated as application of income for charitable purpose and held that the assessee was entitled to the benefits under section 11 and 12 of the said Act.

(ii) Disallowance of Capital Expenditure of Rs.4,39,31,322/-

(a) That the assessee trust has made capital expenditure for different units during the year which are as under:-

R.V.S. College of Engineering & Technology	Rs.2,48,23,302/-
R.V.S. International School	Rs.1,15,70,373/-
<u>R.V.S. Academy</u>	<u>Rs. 75,37,646/-</u>
<u>Total</u>	<u>Rs.4,39,31,321/-</u>

(b) Ld. Assessing officer has disallowed capital expenditure on the single reason that no details have been furnished before her but the facts are different..... Assessee trust has submitted the details of addition in fixed assets at the time of hearing party wise details of fixed assets had been already submitted. The Ld. A.O. had also test checked some of bill of fixed assets. As the volume of bill was in huge so she only checked some of bill for verification. Your assessee maintains all the record and bill for addition in fixed assets. The Ld. A.O. has totally disallowed capital expenditure. The Ld. A.O. ignored the submission made by the assessee trust during assessment proceedings. The Ld. A.O. passed the order in a haste to meet time limit for passing the assessment order without considering the relevant document of information provided by the appellant before the assessee officer.

(c) That during the course of assessment proceeding assessee trust has furnished party wise details of addition of fixed asset along with copy of ledger bills and vouchers. However we are producing the same for your kind perusal and records and marked annex-4 to 6.

(d) That it is humbly submitted that since assessee trust is registered u/s 12AA of the I.T. Act 1961, the capital expenditure of Rs.4,39,31,321/- should be allowed as an application of income from the gross income.

(e) That in this regard we have relied upon judgment passed by Hon'able Orissa High court Cuttack vide ITA no. 11 of 2012 in the case of the commissioner of income tax Bhubaneswar Vs M/s

Silicon institute of technology, Bhubaneswar copy attached marked annex-7.

(iii) Disallowance of Advertising Expenditure of Rs.69,66,832

(a) That during the year assessee trust has claimed as application of income under the head advertisement expenses for different units which are as under

R.V.S. College of Engineering & Technology	Rs.43,52,207/-
R.V.S. International School	Rs.25,81,294/-
R.V.S. Academy	Rs. 33,331/-
<u>Total</u>	<u>Rs.69,66,832/-</u>

(b) That Ld. A.O. has disallowed the advertisement expenses giving following observation: "it is observed that if a course/ institute is not recognized by AICTE/UGG or any Government agency of India, then its courses fee structure etc. are not regulated by these Government agencies and the unrecognized institute runs courses purely in commercial manner, charging fee at its own will and is thus involved in commercialization of education. It is further pointed out that thus the advertisement activities of the assessee do not fall under the category of education as defined in Sec.2(15) of the Act. thus advertisement expenditure is incurred for commercial activities and such expenditure is not as per the objects of the trust. These observations were made during the course of assessment proceedings and the assessee has not been able to rebut these. Hence, expenses claimed under this head to the tune of Rs.69,66,832/- is disallowed."

(c) That it is humbly submitted that facts are totally different. Assessee is an educational charitable trust which is covered under section 2(15) of the LT. Act. Assessee Trust has been granted registered u/s 12AA of the income tax Act as per order of CIT (Jamshedpur) by verifying its objects and activities of educational institutions. The trust runs school and college purely on educational purpose. The Ld. A.O. was not justified in holding that the assessee trust is a business entity, thus not entitled to exemption of its income. The Ld. A.O. failed to appreciate that the educational institution run by the assessee trust are recognized by AICTE, a body of ministry of Human Resources and development, New Delhi, Govt. of India.

(d) Further during the assessment year 16-17, the trust was running the following education institution RVS college of engineering & technology, RVS Academy, RVS International School, RVS Hostel. The main objectives of the trust as per its objects are to open and run educational institutions, school, colleges etc. Besides this, there

are other charitable objects also. RVS Colleges of Engineering & Technology Jamshedpur has been granted approval from the ministry of Human Resources Development Government of India, New Delhi, All India council for technology, education, New Delhi and department of Higher Technical education & skill development, Govt. of Jharkhand Ranchi. RVS college of Engineering & technology, Jamshedpur have been affiliated with Ranchi university, Ranchi. It was also affiliated to kolhan university, Chaibasa. It was also affiliated with Jharkhand university of technology, Ranchi RVS College of Engineering & Technology follows all the norms of its approving authority (AICTE). Fees are also charged as per approving authority guidelines.

(e) Further RVS International School has been affiliated to the council for the Indian School examination (CISCE New Delhi) and thereafter it was affiliated to the ISC (Indian School Certificate Examination). RVS Academy received ICSE affiliated in the year 2007 and ISC In 2008. RVS Academy has been awarded the certification of ISO 9001:200 from NQA, A London based International Organization for Standardization.

(f) Further RVS Hostel provides the accommodation for the students of collage & school which in incidental to main objects of the trust. An advertisement expense was incurred only for the objects of the trust for soliciting the students. Without advertisements the educational institution cannot be run. Due to advertisement the student knows the location of college, school and also knows the status of college. If we could not advertise then it was not possible for us to get the students and augments the income for the objects of the trust.

(g) That the above facts was submitted before Ld. A.O. as well as Ld. CIT(A) and on this ground Ld. CIT (A) has allowed this as application of income. It is further state that the assessee trust has also deducted TDS on the payment of advertisement. The details of advertisement expenses unit wise are enclosed herewith and marked annex-8.

In view of the above your honour is requested to decide the matter in favour the deponent and oblige us.

3. It was submitted by Id CIT DR that in the course of assessment, the Assessing Officer has made three main disallowances being (i) repayment of loan to banks to the extent of Rs.1,72,47,113/- (ii) disallowance of capital expenditure in respect of three of the educational institutions run by the assessee trust to the extent of Rs.4,39,31,321/- and (iii)

disallowance of advertisement of expenditure in respect of three educational institutions run by the assessee trust to an extent of Rs.69,66,832/-. It was the submission that the Id CIT(A) without appreciating the fact that the loan had been taken for acquisition of capital asset and the capital asset having been treated as application of income, the repayment of loan not been granted as allowance. It was the submission that in respect of capital expenditure and advertisement expenditure, the Assessing Officer mentions in the assessment order that the details were not produced for verification. It was the prayer that the order of the Id CIT (A) is liable to be reversed.

4. In reply, Id AR drew our attention to the assessment order at page 2 to submit that all the details have been produced before the Assessing Officer. It was the submission that on perusal of the disallowance made by the Assessing Officer in the assessment order, referred to various evidences which have been produced by the assessee. It was the submission that all the evidences were also produced before the Id CIT(A). The assessee has filed paper book before the Tribunal consisting of 214 pages in respect of various details. It was the submission that the repayment of loan was to financial institutions being a bank and repayment of the loan is to be treated as application of income insofar as the loan was repaid in respect of capital asset which were acquired by the assessee. The loan is repaid out of the receipts of the assessee. It was the submission that the Id CIT(A) had also relied on CBDT circular No.100 dated 24th January, 1973, wherein, it has been categorically held that the

repayment of loan originally taken for fulfilling the object of the trust will amount to application of income for charitable purposes. It was further submitted in respect of capital expenditure, it was in respect of various building and infrastructures which had been put up in respect of three educational institutions run by the assessee. It was further submitted that the advertisement expenditure was in respect of advertisement explaining the various facilities in educational institutions run by the assessee. It was the submission that the Id CIT(A) has rightly deleted the disallowances made by the AO.

5. We have considered the rival submissions. A perusal of the assessment order also shows that the AO has made disallowances of an amount of Rs.1,70,87,735/- under the head carry forward and set-off the excess application of income. Ld AR was specifically asked as to whether the assessee has filed any appeal against the said disallowance, which has been confirmed by the Id CIT(A). It was fairly agreed by the Id AR that the assessee has not filed any appeal against the confirmation of the said addition.

6. In regard to the additions made in respect of repayment of loan, the capital expenditure and the advertisement expenditure, a perusal of the order of Id CIT(A) clearly shows that the Id CIT(A) has considered the evidences as also various judicial decisions while deleting the additions made by the AO on the above expenditures claimed by the assessee. In respect of repayment of loan, Id CIT(A) has also relied on CBDT circular referred to supra. The revenue admittedly has not been able to

dislodgeany of the findings of fact as have been recorded by the Id CIT(A) for the purpose of deleting the addition made on account of repayment of loan. This being so, we find no reason to interfere in the order of Id CIT(A). Consequently, we uphold the order of the Id CIT(A).

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

Order dictated and pronounced in the open court on 21/05/2025.

Sd/-
(RATNESH NANDAN SAHAY)
लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)
न्यायिक सदस्य / JUDICIALMEMBER

राँचीRanchi; दिनांक Dated 21/05/2025

Prakash Kumar Mishra, Sr.P.S

आदेशकीप्रतिलिपिअद्येषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant-
2. प्रत्यर्थी/ The Respondent-
3. आयकरआयुक्त(अपील) / The CIT(A),
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण,राँची/ DR, ITAT, Ranchi
6. गार्डफाईल / Guard file.

सत्यापितप्रति //True Copy//

आदेशानुसार/BY ORDER,

(Assistant Registrar)
आयकरअपीलीयअधिकरण, राँची/ ITAT, Ranchi