

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No. 3852/Del/2024  
निर्धारणवर्ष/Assessment Year: 2020-21**

Income Tax Officer, ITO(E), 1 <sup>st</sup> Floor, CGO Complex II, Hapur Chungi, Ghaziabad, Uttar Pradesh.	<u>बना</u> <u>म</u> Vs.	BABURAM EDUCATION SOCIETY Paronkh Etah, Mainpuri, Uttar Pradesh.
		PAN No.AABAB6687L
<b>अपीलार्थी Appellant</b>		<b>प्रत्यर्थी/Respondent</b>

Assessee by	Shri Bhimanshu Kansal, Adv.
Revenue by	Shri Ajay Kumar Arora, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	29.05.2025
उद्घोषणाकीतारीख/Pronouncement on	25.06.2025

**आदेश /ORDER**

**PER C.N. PRASAD, J.M.**

This appeal is filed by the Revenue against the order of the Ld. CIT(A)-NFAC, Delhi dated 22.5.2024 for the AY 2020-21. The Revenue in its appeal raised the following grounds:

*“1. The CIT(A), NFAC has erred in law and on facts in deleting the addition of Rs.2,11,60,476/- claimed as deduction u/s. 57 of the Income Tax Act, 1961. The CIT(A), NFAC has erred in law and on fact on the following facts/legal provisions.*

(i) *The CIT(A), NFAC has erred in law and on facts by ignoring the fact that the assessee has filed the return of income for the A.Y. 2020-21 as an Association of Persons (AOP) and not claimed deduction u/s 11/12 of the Income Tax Act, 1961.*

(ii) *The CIT(A), NFAC has erred in law and on facts by ignoring the fact that the assessee has filed the return of income in ITR-5 claiming deduction u/s. 57 of the Income Tax Act, 1961. It reveals from the return of income that the assessee has earned income from fee receipts and interest on FDR and offering income u/s. 44AD.*

(iii) *The CIT(A), NFAC has erred in law and on facts by ignoring the fact that the assessee has not claimed deduction u/s. 11(i)(d) in the return of income filed in ITR-5 which shows that the assessee is not covered under provisions of trust/society functioning for social welfare.*

(iv) *The CIT(A), NFAC has erred in law and on facts by ignoring the fact that the relief was allowed to the assessee without appreciating the fact the assessee has not claimed deduction u/s 11/12 of I.T. Act, 1961 rather it has claimed deduction u/s 57 of I.T. Act, 1961.*

(v) *The CIT(A), NFAC has erred in law and on facts by ignoring the fact that to claim exemption u/s 11 of the Act, other statutory obligations (filing of ITR7 and not ITR 5, duly claiming the benefits of the corresponding ITR etc.) are indispensable.”*

2. Ld. DR submits that the assessee in its return of income claimed expenses of Rs.2,11,60,476/- incurred by the assessee as allowable expenses u/s 57 of the Act though the assessee had declared income of Rs.2,12,02,751/- comprising of fee of Rs.2,10,74,000/- and interest on FDR f Rs.1,28,751/-. The AO required the assessee to submit various details to verify the

genuineness to the expenses claimed by the assessee u/s 57 of the Act. Ld. DR submits that since the assessee failed to furnish any documents in support of the return filed by the assessee as the assessee failed to establish the purpose of expenses incurred is wholly and exclusively for earning the income so as to allow expenses as deduction u/s 57 of the Act the AO rightly made the disallowance of expenses. Ld. DR strongly supported the orders of the AO.

3. On the other hand, the Ld. Counsel for the assessee submits that in the computation of income attached to return and Form 10B assessee society which was registered u/s 12A of the Act claimed deduction u/s 11(1)(d). However, in the return the assessee has inadvertently claimed deduction u/s 57 of the Act and therefore the AO denied the claim for entire expenses claimed by the assessee. Before the Ld. CIT(A) the assessee furnished registration certificate u/s 12A, copy of ITR and financial statement, etc., to prove that the assessee is a registered society and is eligible for exemption u/s 11(1)(d) of the Act. The Ld. Counsel further submitted that considering the submissions of the assessee the Ld. CIT(A) deleted the disallowance made as the assessee is a registered society u/s 12A and is eligible for exemption u/s 11(1)(d) of the Act. Ld.

Counsel strongly supported the orders of the Ld. CIT(A). He further made the following submissions:

*Contention of the Department*

*I. From Grounds of Appeal*

*From grounds of appeal filed by the department, in sum and substance, the contentions of the Department are: Since the Assessee has filed STR Form-5 and claimed deduction under section 57 the Act, and hence NFAC has erred in allowing deduction under section 11 of the Act.*

*II. From oral argument taken during the course of hearing*

*The Assessee has submitted old registration certificate viz. registration under section 12A of the Act, but not submitted the certificate for renewal of registration under section 12AB of the Act.*

*Rebuttal of the Assessee against the above contention of the department*

*Rebuttal to first contention of the Department*

*It is well settled position in view of the judicial pronouncements that as long as the trust is registered under section 12A of the Act, and the objects of trust is charitable in character and purpose and also, details mentioned in Form 10B are towards achieving the object of the trust, then the Assessee couldn't be denied the benefit of exemption under section 11 of the Act on account of merely furnishing different form or not submitted any details in ITR form or submitting incorrect details of deduction / exemption.*

*To support its contention, the Assessee places reliance on the following judicial pronouncements:*

- *Hon'ble Supreme Court in case of CIT (Exemption) vs. Bochasanwasi Shri Akshar Purshottam Public cable Trust [2019] 105 taxmann.com 97 (SC).*

*SLP of the department against the decision of the Hon'ble High Court of Gujarat [2019] 102 taxmann.com 122 (Gujarat) was dismissed and held that lack of declaration in Form No. 10 regarding specific purpose for which funds were being accumulated by assessee trust, would not be fatal to exemption claimed under section 11(2) of the Act.*

- *In the case of CIT v. Jyoti Prabha Society [2009] 177 Taxman 429, it was held that if the purpose or object of trust is not lost, then exemption under section 11 of the Act cannot be denied. In this case, Hon'ble High Court of Uttaranchal has confirmed the order of Hon'ble ITAT, wherein the order of CIT-A was upheld.*

- *Hon'ble Jurisdictional ITAT bench of Delhi in case of JOGDHIAN HARI BHAGWAN RASTOGI CHARITABLE MEMORIAL TRUST vs. ACIT (Exemption) [ITA No. 3696/Del/2019], it was held that deduction under section 11 cannot be denied due to mistake in filing ITR.*

- *Hon'ble ITAT bench of Lucknow in case of Bright Land College Vs. ITO (Exemption) [2025] 174 taxmann.com 743 found that application of funds as per provisions of section 11 was correctly reflected in Form 10B, which had been filed electronically by auditor before filing of income tax return. Mere fact that Assessee had filled wrongly or omitted to fill a column in its income tax return, would not take away its eligibility for exemption, if it was otherwise eligible under law. Since it was clear that assessee trust was registered under section 12A for purposes of imparting education to students and it was not pointed out that any expenditure made by society was made on matters outside objects of Assessee trust or for non charitable purposes, there was no occasion to sustain disallowance of exemption.*

The copy of above judgments are enclosed

Nowhere in the assessment order, it is contended by the Ld. AO that the Assessee has violated the object of the trust or has not incurred the expenses towards its object. Further, denial of exemption under section 11 of the Act is beyond the scope of scrutiny assessment in view of the afore-mentioned instructions by the CBDT.

Rebuttal to second contention of the Department

The year under consideration is AY 2020-21 for which old registration certificate under section 12A was valid and hence the registration under section 12AB was not the requirement was effective from AY 2021-22 and not applicable for AY 2020-21. Registration certificate under section 12A has been provided by the Assessee while filing appeal before the CIT-A vide Form 35 and accordingly, the same was in records of the Ld. CIT-A. The copy of registration certificate is enclosed herewith vide this synopsis along with the translated copy of the same in English. Nonetheless, application and the registration certificate of the Assessee for AY 2021-22 onwards are enclosed at page 117 to 127 of the Paper-book.

Conclusion

Exemption under section 11 of the Act cannot be denied, if following conditions are satisfied:

- A trust is registered under section 12A/12AA of the Act.
- The expenses are incurred towards its object.
- There is no violation in the object of the trust.
- Details in relation to registration and exemption are in records of the Tax authorities.

To claim exemption under section 11 of the Act, a trust is required to have the registration certificate under section 12A of the Act and the amount is to be applied towards object of the trust. In the instant case, there is no allegation in the assessment order in relation to the

*violation of the object of trust, and hence the addition made by the Ld. AO are beyond his scope and liable to be deleted. In this regard, the Ld. NFAC has rightly deleted the addition made by the Assessing Officer and allowed the deduction under section 11 to the Assessee.*

*When the Assessing Officer had correct computation of income (reproduced in assessment order and legible copy has been provided at page 38 of the Paper-book) claiming deduction under section 11 of the Act in his records, and merely the Assessee has claimed deduction under section 57 of the Act by filing ITR-5 should not be base for denial of exemption under section 11 of the Act.*

*Certificate under section 12A, which is relevant for the year under consideration i.e. AY 2020- 21, has been submitted before the CIT-A and in their records. The registration certificate under section 12AB was not relevant for the year under consideration, as requirement to obtain registration under section 12AB become applicable from AY 2021-22 and onwards.*

4. Heard rival submissions, perused the orders of the authorities below. The Ld. CIT(A) deleted the disallowance made by the AO for the reason that the assessee is a registration society u/s 12A of the Act and is eligible for exemption u/s 11(1)(d) of the Act. The assessee in its computation of income as a matter of fact claimed exemption u/s 11(1)(d), however, while uploading the return it was inadvertently claimed deduction u/s 57 of the Act. The Ld. CIT(A) also in the course of appeal proceedings called for a remand report from the AO on the submissions made by the assessee and the evidences furnished by the assessee. However, the AO did not choose to furnish his remand report to the Ld. CIT(A). The Ld.

CIT(A) considering the submissions and evidences furnished before him deleted the disallowance made by the AO observing as under:

6. *Decision:*

*Since the assessment in this case is framed u/s 144 of the Act as no submission was filed by the appellant therefore the submission filed by the appellant in the course of the appellate proceeding were forwarded to the AO under rule 46A of the Rules for comments. However, no remand report is received from the AO. The submission filed by the appellant are admitted and the appeal is decided accordingly.*

*6.1 The appellant in its ground of appeal assailed the AO in framing the assessment after making an addition of Rs.2,11,60,476/-. The appellant in its submission submitted that it is a registered charitable trust vide registration No. 6182 of 2011-12 and is also registered u/s 12A of the Act, vide registration order No 124/19/CIT/DCIT/Alg/12AA&80G/2012-13/2917 dated 15.01.2013 and is running two educational institutions namely, M/s Baburam Udhogik Prashikshan Kendra and Baburam Education Society in Mainpuri and is therefore eligible for exemption u/s 11 and 12 of the Act. The appellant in this regard filed the copy of the 12A registration and the MOA of the Trust besides copy of the I & E Accounts and copy of Form 10B.*

*6.2 The submission of the appellant is examined and is found to be having force as the appellant society/trust is registered u/s 12A of the Act and is therefore eligible for exemption of its income under the section 11 of the Act. Accordingly, the addition made by the AO is deleted. The ground of appeal is allowed.”*

5. On careful perusal of the findings of the Ld. CIT(A), we do not see any valid reason to interfere with the findings of the Ld. CIT(Appeals) in deleting the disallowance of entire expenses

disallowed by the AO while completing the assessment. Grounds raised by the Revenue are rejected.

6. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 25/06/2025

Sd/-  
(S RIFAUH RAHMAN)  
ACCOUNTANT MEMBER

Sd/-  
(C.N. PRASAD)  
JUDICIAL MEMBER

Dated: 25.06.2025

*\*Kavita Arora, Sr. P.S.*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI