

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA Nos. 955 & 952/Del/2019
(Assessment Years: 2012-13 & 2014-15)

Council of Architecture, Core-6A, First Floor, India Habitat Centre, New Delhi	Vs.	ITO (Exemption), Ward-1(3), New Delhi
(Appellant)		(Respondent)
PAN: AAATC3616N		

Assessee by :	Shri Sushil Kumar, Adv
Revenue by:	Ms. Harpreet Kaur Hansra, Sr. DR
Date of Hearing	07/08/2025
Date of pronouncement	13/08/2025

ORDER

PER M. BALAGANESH, A. M.:

1. These are the appeals filed by the assessee in ITA No.955/Del/2021 for AY 2012-13 and ITA No. 952/Del/2019 for AY 2014-15 arise out of the order of the Commissioner of Income Tax (Appeals)-40, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] dated 22.11.2018 for AY 2012-13 and 2014-15 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 25.10.2017 and 29.11.2016 by the Assessing Officer, ITO (Exemptions), Ward-1(3), New Delhi (hereinafter referred to as 'Id. AO').

Both the appeals have identical issues and hence they are taken up and disposed of by this common order for the sake of convenience.

2. The only identical issue to be decided in these appeals is as to whether the one time life membership fee received by the assessee from

its members could be construed as revenue receipt in the facts and circumstances of the instant case. The other grounds raised by the assessee challenging the validity of assessments were not argued and hence the same are dismissed as not pressed.

3. We have heard the rival submissions and perused the material available on record. The assessee is a statutory body created under the Act of Parliament of Gazette Notification No. 27 dated 13.05.1972. The Architects Act, 1972 (No. 20 of 1972) came into force with effect from 1st September, 1972 with a mandate to perform statutory functions i. e. Granting Registration to qualified persons as Architect, Prescribing Minimum Standards of Architectural Education for imparting recognized qualification by Colleges/Universities/Institutions across India as per the provisions of the Architects Act, 1972, Council of Architecture Rules, 1973 and Minimum Standards of Architectural Education Regulations, 1983 made there under.

4. The assessee is an "Association of persons (AOP Trust) and granted registration u/s 12AA of the Act as a Trust vide Order No. 233/9495 dated 15.09.1994 with effect from 01.04.1993. There is absolutely no dispute regarding the objects of the trust, being charitable in nature and activities carried out by the assessee being in consonance with the objects of the Trust. The assessee is governed by law and is initially funded by Government of India and also collects mandatory Statutory Fees which are hereunder:

- (i) Registration Fees from the qualified Architects (the registrants),
- (ii) "One Time Registration Fee" (Life Membership) from the qualified Architects.

5. That the assessee collects "One Time Registration Fee (Life Membership)" from the qualified Architects in terms of Council of Architecture Rules, 1973 which is framed by Ministry of Human Resource Development (MHRD) of Government of India and under the said authority from MHRD of Government of India vide Gazette Notification No. 36 dated 26.9.1998 (Rule No. 29 to 30 of Architecture Rule, 1973) followed by Resolution passed in the 65th Meeting. The assessee passed a resolution in the 65th Meeting of the Executive Council dated 10.03.1999 wherein it was decided that one-time payment being received by the Council towards "Renewal Fee" from the Architects amounting to ₹2000/- be capitalized and not to be spent and interest arising on this amount would be taken as income of that financial year. Accordingly, the assessee created a capital fund styled as "Earmarked/ Endowment Fund" for specific purpose and one time life membership fee received was parked in the said Endowment Fund Account and invested in term deposit with Nationalised Banks in accordance with provisions of 11(5) of the Act.

6. There is absolutely no dispute that assessee being a registered charitable trust, is entitled for claim of exemption u/s 11 of the Act and that assessee had indeed duly complied with the provisions of Sections 11 to 13 and had applied 85% of the receipt for the objects of the trust. Since the one-time life membership fees received were directly taken to the 'Endowment fund' as capital receipt, the same was not required to be taken by the assessee as a revenue receipt and consequentially apply 85% of the same for the objects of the trust. This view of the assessee was also accepted by the auditor while furnishing the audit report in Form No. 10B along with audited financial statements filed with the return of income. For assessment year 2012-13, the original assessment was completed u/s 143(3) of the Act on 31.12.2014, allowing the exemption u/s 11 and 12 of

the Act for the assessee and assessment was framed at Rs. Nil income. Later the assessment for AY 2012-13 was sought to be reopened vide issuance of notice u/s 148 of the Act dated 27.03.2017, where it was proposed to treat one-time life membership fee as a revenue receipt as against the treatment of capital receipt given by the assessee. This proceedings ultimately culminated in framing of reassessment order u/s 147/ 143(3) of the Act on 25.10.2017 for Assessment Year 2012-13, determining the income of the assessee at ₹91,42,842/- as under:-

Gross receipt as per income and expenditure account	3,27,89,538/-
Add: one time membership fee	1,56,45,000
	4,84,34,538
85% of the sum	4,11,69,357
Less application of income as per income and expenditure	3,20,16,515
Balance	91,42,842

7. This balance of 91,42,842/- was treated as shortfall of application of income for charitable purposes and assessed to tax. The assessee preferred an appeal before the Id CIT(A) and could not succeed. It was submitted that the receipt of ₹1,56,45,000/- are not voluntary contributions as observed by the lower authorities and that they are mandatory registration fee collected from the architects. The architects are given an option either to pay membership fee year by year or pay a lump sum life membership fee for one time. It is pertinent to note that the receipt of such one-time membership fee is backed by statutory authority by virtue of Gazette Notification No. 27 dated 13.05.1972 and subsequent Resolution of 65th Meeting of Executive Council of the assessee. With regard to receipt of one time life membership fee from the architects, the assessee had apportioned the same and had transferred 1/40th of the same to income and expenditure account and treated the remaining in the

Endowment Fund. This has been carried out by the assessee consistently for the last 20 years and the treatment was accepted by the revenue. The Id AR submitted that ignoring the consistent practice of apportionment of life membership fee to income as per the adopted policy by the assessee and considering the receipt of life Membership fee as income in the year of receipt would effectively distort the complete financial structure and also would result in to double addition by the revenue. Per contra, the Id AR relied on the orders of the lower authorities and placed reliance on the following decisions: –

- a. CIT Vs. The Calcutta Stock Exchange Association Ltd reported in 36 ITR 222 (Cal)
- b. Delhi Stock Exchange Association Vs. CIT reported in 41 ITR 495 (Del)
- c. CIT Vs. United Club reported 161 ITR 853(Pat)

8. In all these aforesaid cases, the entrance fee/ one-time membership fee received from the new members were treated as revenue receipt. The Id DR also placed reliance on the decision of Hon'ble Jurisdictional High Court in the case of CIT vs Divine Light Mission reported in 278 ITR 659 (Del), wherein it was held that voluntary donation received by the trust was treated as revenue receipt. The Id AR placed reliance on the decision of the Hon'ble Bombay High Court in the case of CIT Vs. W.I.A.A. Club Limited reported in 136 ITR 569 (Bom), wherein the life time membership fee received by the club was treated as capital receipt, being receipt of enduring nature.

9. Ultimately, we find that receipt of one time life membership fee by the assessee and treatment given thereon in the books is the dispute before us. The assessee has been consistently following practice of

apportionment of the life membership fee over the period of 40 years and transferred from the endowment fund account to the income and expenditure account every year to the extent of 1/40th share. This practice has been accepted by the revenue in the past. The revenue is only trying to disturb the very same nature of receipt to be 100% revenue receipt in the year under consideration. As rightly pointed out by the Id AR, this would completely disturb the financial structure of the assessee and would indeed result in double taxation. The assessee has been consistently offering 1/40th of the life membership fee as its revenue hence, effectively only is a question of timing difference. There would be absolutely no loss to the exchequer in the form of taxes. The Hon'ble Supreme Court in the case of CIT Vs. Excel industries Limited reported in 358 ITR 295(SC) held by observing that where the rate of taxes remain the same in all the years, the dispute raised by the revenue is entirely academic and in that scenario, no addition is required to be made. While doing so, the Hon'ble Supreme Court had duly taken cognizance of the principles of real income theory and proposed consistency in the treatment of a particular transaction. The decisions rendered by the Hon'ble Supreme Court in the case of Excel Industries (supra) on the aspect of timing difference and consequently there should not be any addition, applies to the facts of the instant case before us. Accordingly, we hold that the action of the revenue in treating the one time life membership fee received from the architects as a revenue receipt is not acceptable. The Id AO is hereby directed to ignore the said sum of ₹1,56,45,000/- while computing the application of income for charitable purposes and while computing the exemption u/s 11 of the Act. The Id AO is hereby directed to compute accordingly and grounds raised by the assessee for assessment year 2012-13 on merits are allowed and sustenance of reopening are dismissed as not pressed.

10. The issues in dispute for assessment year 2014-15 are identical to those in assessment year 2012-13 eventhough here the assessment is made in the regular assessment u/s 143(3) of the Act by the Id AO.

11. In the result, the appeal of the assessee for Assessment Year 2012-13 is partly allowed an appeal of the assessee for Assessment Year 2014-15 is allowed.

Order pronounced in the open court on 13/08/2025.

-Sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 13/08/2025
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi