

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 4007/Del/2025
(Assessment Year: 2018-19)

Gangarani Balika Vidhyalya, Rampur, Baiju, Chibramau, Kannauj, UP	Vs.	ITO, Ghaziabad
PAN: AATG8579N		

Assessee by :	Shri Vibhu Gupta, Adv
Revenue by:	Shri Manoj Kumar, Sr. DR
Date of Hearing	13/08/2025
Date of pronouncement	27/08/2025

ORDER

1. The appeal in ITA No.4007/Del/2025 for AY 2018-19 arises out of the order of the Id. National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC', in short] in Appeal No. ITBA/NFAC/S/250/2025-26/1076220572(1) dated 15.05.2025 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 dated 31.03.2021 (hereinafter referred to as 'the Act') by ITO, Exemption, Ward, Ghaziabad (hereinafter referred to as 'Id. AO').

2. The only effective issue is to be decided in this appeal is to as to whether the surplus amounts which had not been applied for charitable purposes by the assessee trust, but kept in current account maintained with Bank of India would be eligible for exemption u/s 11(2) of the Act or not in the facts and circumstances of the instant case.

3. I have heard the rival submissions and perused the material available on record. It is not in dispute that assessee is a public charitable trust duly registered u/s 12A/ 12AA of the Act and eligible for exemption u/s 11 of the Act. The assessee Society is carrying on objects of imparting education to

the children of nearby villages of Kannauj District, UP. From the return of income filed for AY 2018-19, it could be seen that the total receipts amounted to ₹1,59,27,480/-. Out of this, an amount of ₹31,34,000/- has been accumulated and set apart for specified purpose u/s 11(2) of the Act for the purpose of building construction. The assessee filed Form 10 stating the purpose for which this sum is accumulated, i.e. for building construction. This sum was retained by the assessee in the Current Account of the assessee Society maintained with Bank of India (a public sector bank). The Id AO observed that the accumulated sum ought to have been invested in any of the modes prescribed u/s 11(5) of the Act and held that amount retained in the current account is not a prescribed mode. Accordingly, he denied the claim of exemption u/s 11(2) of the Act to the extent of ₹31,34,000/-. This action was upheld by Id NFAC.

4. I find the Hon'ble Madras High Court in the case of ADIT (Exemption) Vs. Murugappa Chettiar Trust reported in 303 ITR 360 (Mad) had an occasion to deal with this very same issue. For the sake of convenience, the said order is reproduced below:-

This appeal is filed under section 260A of the Income-tax Act, 1961, by the Revenue, against the order of the Income-tax Appellate Tribunal, Bench "C", Chennai, in I.T.A. No. 513(Mds)/94, dated February 15, 2001. On June 16, 2004, this court admitted the appeal and formulated the following substantial question of law:

"Whether, on the facts and circumstances of the case, the Appellate Tribunal was right in law in holding that Rs. 4,86,304 which was not invested in another capital asset could be eligible for exemption under section 11(1A) of the Income-tax Act?"

The facts leading to the above substantial question of law are as under:

The assessee is a trust. The relevant assessment year is 1990-91 and the corresponding accounting year ended on March 31, 1990. The assessment was completed under section 143(1)(a) of the Income-tax Act, 1961 ("the Act" in short), raising a demand of Rs. 4,60,433. The assessee-trust sold certain lands for Rs. 9,65,625 and out of the sale proceeds, invested an

amount of Rs. 4,58,321 in fixed deposits and Rs. 21,000 in a building under construction. Later, the assessee filed a petition under section 154 of the Act stating that the assessment could not be made under section 143(1)(a), because the prima facie adjustments made by the Assessing Officer were beyond his scope. However, the application was dismissed. Aggrieved by the same, the assessee filed an appeal before the Commissioner of Income-tax (Appeals). The CIT(A) allowed the appeal and set aside the order of the Assessing Officer. Aggrieved, the Revenue filed an appeal to the Income-tax Appellate Tribunal ("the Tribunal" in short). The Tribunal dismissed the appeal and confirmed the order of the CIT(A). Hence, the present appeal by the Revenue.

Learned standing counsel appearing for the Revenue submitted that only a sum of Rs. 4,58,321 was invested during the year of account in another capital asset, namely, fixed deposit and the balance amount was lying in current account in the Bank of India and also by way of cheque on hand and the amounts lying in the current account and the cheque on hand could not be classified as investment in another capital asset. Therefore, the Assessing Officer is right in holding that the amount lying in the current account as well as the cheque on hand, could not be taken as a classified investment.

Learned counsel appearing for the assessee submitted that the assessee had invested the balance amount in the current account and hence the assessee has satisfied the requirement as contemplated under the provisions of the Act. Hence, the order passed by the Tribunal is in accordance with law.

Heard counsel. It was found by the Assessing Officer that a sum of Rs. 4,58,321 was alone invested during the year of account in another capital asset, viz., fixed deposit. The dispute here is whether the balance amount of Rs. 4,86,304 lying in the current account in the Bank of India as well as the cheque on hand, would be considered as classified investment or not, under the provisions of the Act. Section 11(5)(iii) of the Act, reads as under:

"(5) The forms and modes of investing or depositing the money referred to in clause (b) of sub-section

(2) shall be the following, namely:- ...

(iii) deposit in any account with a scheduled bank or a cooperative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank)."

In the present case, the deposit was made in the current account with the Bank of India and hence the same will come within the meaning of the

words "deposit in any account with a scheduled bank". "Any account" includes current account also. It is not disputed by learned standing counsel appearing for the Revenue. The amount involved in the present case is Rs. 4,86,304. For this amount, there is no particulars available regarding the amount deposited in the current account and also the details regarding the cheque on hand. In respect of the deposit in the current account, both the authorities have correctly taken the view that it is a classified investment, as contemplated under the provisions of the Act. It is seen from paragraph 2 of the Commissioner of Income-tax (Appeals) order that out of Rs. 4,86,304, a sum of Rs. 3,31,36.75 was invested in the current account with the Bank of India and hence, the said amount is a proper investment and the same is covered by section 11(5)(iii) of the Act. The details regarding the cheque amount is not available on record. Hence, we remand the matter to the Tribunal with a direction to find out the details regarding the cheque amount and the deposition of the same, so that the Tribunal can determine whether the assessee has satisfied all the conditions as per the provisions of the Act or not, and pass appropriate orders in accordance with law.

We make it clear that as far as the amount invested in the current account is concerned, the same has to be considered as "classified and proper investment" and the remand is only to find out the details regarding the cheque amount and also to find out whether the cheque was deposited or not, for the purpose of giving benefit under the provisions of the Act and pass appropriate orders in accordance with law.

With the above observations, the tax case is disposed of. No costs"

5. Respectfully following the same, the grounds raised by the assessee are allowed.
6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 27/08/2025.

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 27/08/2025
A K Keot

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

ASSISTANT REGISTRAR
ITAT, New Delhi