

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 509/Chny/2025
निर्धारण वर्ष / Assessment Year: 2017-18

Income Tax Officer, Exemptions, Ward-1, Chennai.	vs.	Greenpeace Environment Trust, New No.49, Old No.23, Ellaiamman Colony, Gopalapuram, Chennai-600 086.
(अपीलार्थी/Appellant)		[PAN:AAATG-3538-R] (प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Mr. Kumar Chandan, JCIT.
प्रत्यर्थी की ओर से/Respondent by : Shri. Y.Sridhar, F.C.A.

सुनवाई की तारीख/Date of Hearing : 19.06.2025
घोषणा की तारीख/Date of Pronouncement : 25.08.2025

आदेश / O R D E R

PER S. R. RAGHUNATHA, AM :

This appeal is preferred by the Revenue against the order dated 24.12.2024 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ('Id.CIT(A)' in short), arising out of the assessment order dated 26.12.2019 passed u/s.143(3) of the Income Tax Act, 1961 (in short 'the Act') by the Income Tax Officer (Exemptions – 1) Chennai ('AO' in short), for the Assessment Year ('AY' in short) 2017-18.

2. The Revenue has raised the following grounds of appeal:

1. *The order of the Id. CIT(A) is contrary to the law and facts of the case.*

2. *Whether the Id. CIT(A) was right in holding that the assessing officer was not justified in disallowing the Consultancy Fee, as the expenses are in the nature of professional and consultancy expenses. It may also be noted that donations are made voluntarily and not by employing people to achieve the target of collection. In assessee's case the persons who made collections satisfactorily are called professionals and payments are made to them. The Ld. CIT(A) has not gone into details.*
3. *The Id. CIT(A) erred in deleting the 50% of Printing & Stationery, as the assessee's books of accounts have been audited and that the entire expenses were incurred towards the activities of the assessee. When the Majority of the assessee's activities are through electronic mode, but the CIT(A) did not state the reason for allowing the entire claim of the assessee.*
4. *The Id. CIT(A) failed to appreciate the fact that the Diem & Subsistence Allowance was disallowed as the expenses are incurred on people who are not employees of the assessee trust.*
5. *Whether the Id. CIT(A) was right in deciding the issues without justifying the reasons for allowing the claims of the assessee even as the AO has substantiated the additions made by him.*
6. *For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the Id. CIT(A) may be set aside and that of the Assessing Officer may be restored.*

3. The assessee is a public charitable Trust registered u/s.12A of the Act. The return of income for A.Y.2017-18 was filed on 14.09.2017 by declaring total income of Rs.Nil after claiming exemption u/s.11 of the Act. The case was selected for scrutiny under CASS as per prevailing guidelines of CBDT. During the course of assessment proceedings, the AO noted that the assessee had incurred expenses of Rs.2,13,87,456/- on account of fees for professional and consultancy but the nature of services provided by the said persons was similar to the employees working in call centres, hence the entire expenditure was disallowed. Further the subsistence allowance of Rs.3,55,741/- was disallowed on the ground that the same is paid to others who are not the employees of the assessee. Further 50% expenses of printing & stationary of Rs.5,05,810/- has been disallowed on the ground that the assessee conducts the activities through electronic mode only. Apart from the above, the AO also disallowed the depreciation claim of Rs.8,40,270/- without assigning any reasons for doing so. The AO also made addition of Rs.1,29,85,464/- on account of unspent amount

of A.Y.2016-17 out of accumulated receipts. The AO computed 85% of the gross income at Rs.5,84,84,503/- whereas the adjusted expenditure incurred after disallowances as discussed above was worked out to Rs.3,50,17,249/- and the shortfall of Rs.2,34,67,254/- (Rs.5,84,84,503/- (-) Rs.3,50,17,249/-) which was treated as taxable income by the AO and passed an order u/s.143(3) of the Act dated 26.12.2019.

4. Aggrieved by the assessment order passed by the AO, the assessee preferred an appeal before the Id. CIT(A).

5. Before the Id. CIT(A), the assessee submitted the following:

A. Assessment Order :

1. *The disallowances made in the Assessment Order (Order) under Appeal are tabulated below with a comparative statement of figures as per the Return and the Order.*

	Return of Income	Order
Gross receipts	6,88,05,298	6,88,05,298
Less:15%	1,03,20,795	1,03,20,795
Balance to be spent	5,84,84,503	5,84,84,503
Application	5,86,93,950	
Application as per Order (after Disallowances Rs.2,36,76,747/-)		3,50,17,249
Taxable income	-2,09,447	2,34,67,254

Expense head	Amount spent & claimed by Appellant	Disallowance by AO	
Per diem and subsistence allowances	3,55,741	100%	3,55,741
Consultancy fee (Professional consultancy)	2,13,87,456	100%	2,13,87,456
Printing & stationery	10,11,620	50%	5,05,810
Income tax	14,27,740	100%	14,27,740
Disallowances			2,36,76,747

B. ADHOC DISALLOWANCE - GROUND 4 :

2. *In the Order, the Appellant's Charitable activity and nature have not been questioned by the AO and it is undisputed. This is clear inter alia from the fact that 15% exemption, capital additions of Rs.5,47,908/- and application of preceding years' accumulation under Section 11(2) of Rs.1,29,85,464/- have been allowed as per the Return. Further there is no adverse observations on the Charitable activities.*

Therefore ad hoc disallowances of expenses ought not to have been made and the returned figures ought to have been accepted in the Order.

The AO in making the disallowances has just followed the Assessment Orders for AYs 2012-13, 2013-14 and 2016-17 without any application of mind and the disallowances is arbitrary.

3. *In the Order, the AO has made ad hoc disallowances when the authenticity, genuineness, nexus with the activity and need of/for these expenses have not been questioned and are undisputed. The Appellant has furnished complete party wise itemised breakup with purpose, payee details, PAN, amount etc., for all the expense heads. While the disallowances are to be deleted on merits, even on principle of law ad hoc disallowance or disallowances on estimate basis is impermissible for the following reasons:*

3.1 *The AO ought to have stated clearly in the Order the bill/vouchers which are specifically disallowed. Without such specificity in the Order the Appellant has no information to even present its case in appeal. Ad hoc disallowances are to be deleted on this ground.*

3.2 *Further Appellant's Books are audited and Books are accepted by the AO. The genuineness of the expenditure or the programme has not been questioned by the AO and are undisputed. Therefore the disallowances of expenses whether adhoc or otherwise is not warranted. AO has no role in determining account head or the persons/items used by the Appellant. The purpose, need and quantum of expenses are not to be decided by the AO. Disallowances cannot be based on AO's subjective opinion on these matters.*

3.3 *In Principal CIT vs. R G Buildwell Engineers Limited (2018) 99 Taxmann.com 284(SC) the Departmental SLP was dismissed by the Supreme Court. In this case the AO disallowed Rs. 3.64 Crores, being 10% of the claim under two expense heads. The ITAT sustained CIT(A)'s deletion of the addition. The ITAT's reasons were that the Books were not rejected and that in the past such expenses were allowed. The High Court dismissed Departmental appeal and the Supreme Court was approached which dismissed the SLP*

3.4 *Ad hoc disallowances are not legally valid as is clear from the decision of the jurisdictional Madras High Court in CIT vs. Lakshmi Vilas Bank Limited (Indian Kanoon - <http://indiankanoon.org/doc/22613564/>). In this case the AO disallowed 10% (Rs.84.33 lakhs) of the total 'other expenses' of Rs.8.43 crores. We reproduce below the relevant portion of paragraph 3 of the judgement²*

"The expenditure claimed by the Assessee related to petty cash expenditure and when the Revenue had thought fit to allow 90% of the claim, there was no reason to reject the balance 10% attributing it to the possibility of having the shade of a personal expenditure. Except for this reasoning, we do not find any justification in the Revenue's contention that the disallowance of 10% is warranted in the facts of the case, which, being a pure factual issue, we reject the Appeal at the admission stage itself"

3.5 In ACIT vs. Ganapati Enterprises Limited (2013) 32 Taxmann.com 262 (ITAT Delhi) 3 there was an ad hoc disallowance of Rs.5 lakhs. The ITAT held – paragraph 6.2 as below:

"In our opinion the Scheme of the Act does not authorize the Assessing Officer to make a disallowance according to his wishes, rather it provides that he should first point out the defects in the accounts of the Assessee. In the finding extracted (Supra) it nowhere reveals what was the total amount of expenditure claimed by the Assessee, which specific vouchers was not in accordance with law. In a just sweeping statement, the Id. AO observed that on verification, some of the expenses were found to be unverifiable, but what were those expenses, he should make out in the assessment order, only then he can disallow them."

The Tribunal has held that the AO should point out the specific unverifiable/improper vouchers which are being disallowed.

3.6 Please refer to the order of ITAT Ahmedabad in The City of Ahmedabad Spg. & Mfg.Co.Ltd., Vs. Income- tax Officer, Ward -1(1), Ahmedabad. ITA No.2612/Ahd/2011 dated 9-10-2015. In this case also the ad hoc disallowances was deleted as there was no proper working provided by the AO to show that the expenses were not allowable.

3.7 Please refer to the decisions in TUV India (P) Limited vs DCIT (2019) (110 taxmann.com 175 – Mumbai Trib). In this case ad hoc disallowances of 10% of various expenses was made. The disallowances was Rs.2.76 Crores. This was deleted as the Books were not rejected and there was no allegation of bogus claim.

C.DISALLOWANCE (100%) OF PROFESSIONAL & CONSULTANCY CHARGES Rs.2,13,87,456/- - GROUND 2:

4. The entire expenditure of Rs.2,13,87,456/- has been disallowed on the ground that payments have been made to only tele callers, who, as per the AO, cannot be considered as consultants. As per the AO, Professional/Consultancy charges are normally paid only to persons who have the necessary "expertise, knowledge, command and control in their respective fields" (paragraph 5.2 of the Order) and the Appellant has not been able to substantiate as to how payments to such ordinary tele caller similar to persons working in call centres (paragraph 5.5 of the Order) can be treated as Consultancy.

5. The Appellant had filed with the AO a complete breakup with name, payment, purpose etc., and has also deducted TDS as confirmed by the AO in paragraph 5.3 of the Order. As can be seen from the details 6 and paragraph 5.2 of the Order, the AO was not correct in stating that the entire amount of Rs.2.13 Crores has been paid only to tele callers. There were payments to other subject matter specialists and service providers. A written note was also furnished.

Without prejudice, to the Appellant's plea that the entire disallowances of Rs.2,13,87,456/- is to be deleted, there was no case even by AO's flawed logic for the 100% disallowances made in the Order as the entire payments is not made to tele callers as assumed by him. In paragraph 5.2 of his Order, the AO has recorded eight different broad nature/category of payers/services paid for, with tele callers being one of the eight and he does not refute/contradict this fact.

The AO has not brought on record any evidence to show that the payee-consultants lacked the skill and competence to do their assigned work/job.

6. The Appellant does not accept Corporate and Government donations. All the donors are individuals and most of them contribute small amounts every month to the Appellant. Further all the donations are local donations. Rs.6,74,09,232/- is the amount of donations which has been received by the Appellant in this year. Without these persons involved in Campaign and public awareness, donations of this volume cannot be generated inter alia, and the programmes cannot be implemented effectively.

7. Appellant's main activity is Campaign and creating public awareness on environmental issues. Raising the money and the campaign activity involves tele callers, campaigners, recruiters etc. The objectives of the team is to enrol and retain donors and to engage them meaningfully in the Appellant's work. This is a Campaign and fund-raising model which has been developed and refined over the years. Further donor data base is to be maintained too as all the donations are accepted only through direct bank debit, credit card or cheque/DD. The majority of the donors are acquired in two settings - Street and Outreach. As can be seen from the break ups the tele callers, campaigners etc., are employees drawing a small amount for services rendered. They are not meant to be specialists with specialised skills and expertise of the type that a doctor, lawyer etc. enjoy. Nomenclature of the head of account is irrelevant in deciding their need.

8. The campaign framework is defined by the acronym IDEAL:
 - Investigating into environmental problems
 - Documenting and bearing witness to environmental problems and offences
 - Exposing the truth, by communicating to people what Appellant has researched
 - Acting for positive change
 - Lobbying and engaging in dialogue with Corporations and Government bodies to make environmentally conscious choices for a sustainable future

Under the circumstances tele callers, campaigners, outreach officers etc., have an important role to play.

9. The Appellant has furnished all the information sought. The identity of the persons, TDS compliance, genuineness and authenticity of the payments are not questioned by the AO and are undisputed. The AO does not question the need for the expenditure. His only objection is limited to the head of account being styled as Consultancy fee when the payees, in his opinion, cannot be treated as consultants. This cannot be a ground for disallowing Rs. 2.13 Crores of expenditure.

10 Under the circumstances the entire disallowances is to be deleted.

D. DISALLOWANCE (100%) OF PER DIEM AND SUBSISTENCE - Rs. 3,55,741/- - GROUND 1:

11. Per diem is paid towards reimbursement of food expenses during official travel. No portion of the travel expenses has been disallowed. Therefore, there is no basis for disallowing the per diem which is related to this travel.

12. The Appellant depends on volunteers and consultants. The per diem with purpose and amount has been incurred throughout the year as is clear from the person wise breakup submitted to the A09.

13. The disallowance has been made on the ground that the expenses have been incurred on persons who are not employees. Expenses cannot be disallowed on the

ground that they are incurred on volunteers or consultants who are not employed with the Appellant. Disallowance is possible only if the expenses are not genuine or are unrelated to the Appellant's activity. Both these tests are not met in Appellant's case and there is no finding to that effect in the Order too. Please see paragraph 4.2 of the Order which is cryptic with no reasoning.

E. DISALLOWANCE (50% OF Rs.10,11,620/- i.e., Rs.5,05,810/-) PRINTING AND STATIONERY - GROUND 3:

14. The expenditure has been disallowed on the sole ground that the Appellant carries on its activities through electronic mode and so the expense of Rs.10,11,620/- is excessive. Consequently 50% of the expenditure is disallowed. A complete breakup of the expenditure was submitted to the AO. The expenditure is towards cost of essential stationery, photocopy, printing in connection with the programme etc., which will be required in any Office. The overall expenditure and the individual components of such expenditure are not high to warrant any disallowance. Further no organisation or assessee can manage without incurring expenditure on printing and stationery. Electronic mode will not dispense with stationery expenses in any entity.

F. INCOME TAX PAID - Rs.14,27,740/- - GROUND 5

15. During the year Rs.14,27,740/- was paid as Income Tax relating to earlier years. Please see form 26A.811 attached. The payments were as below:

Date of remittance	Amount- Rs	Remarks
01.07.2016	1,45,905	AY2012-13
01.06.2016	1,45,906	AY2012-13
02.05.2016	1,45,906	AY2012-13
05.04.2016	1,45,906	AY2012-13
30.01.2017	8,44,117	AY2014-15
Total	14,27,740	

This is to be allowed as application as per the decision of the Madras High Court in Janaki Ayya Nadar Trust (1985) 153 1TR 159.

16. The AO has disallowed it without any explanation on reasoning. It was claimed in the Return of Income and in the Statement of Total Income as application.

G. FORM 10 - Rs.7,01,000/-

17. The Appellant had claimed depreciation and capital additions as application erroneously.

Consequently Form 10 was filed for Rs.7,01,000/- with condonation for delay with C1T(E) and the AO. The relevant documents are enclosed.

H. PRAYER

18. In the facts and circumstances of the case, on the basis of the oral and written submissions made, and taking into consideration the evidence on record and the law on the subject, it is most humbly prayed:

a) That the disallowances, of application claimed, of Rs.2,36,76,747/- be deleted and the returned figures with complete exemption under Sections 11 and 12 as claimed, be allowed.

b) That the consequent levy of tax and interest be struck down;

c) That the Appellant's appeal be allowed.

6. After carefully considering the submissions made by the assessee during the first appellate proceedings, the Id.CIT(A) allowed the appeal in favour of the assessee by deleting the disallowances made by the AO by passing an order dated 24.12.2024. Aggrieved by the order of the Id.CIT(A), the Revenue is in appeal before us.

7. The Id. DR submitted that the Id.CIT(A) was not justified in considering the payments made to tele callers for collection of donations as allowable expenditure on account of professional charges paid and hence the order of Id.CIT(A) is erroneous. The Id.DR also submitted that the Per-diem & Subsistence Allowance was disallowed by the AO as the expenses are incurred on people who are not employees of the assessee trust. However, the Id.CIT(A) has erred in treating the said expenditure as allowable expenditure. Further, though the AO has observed that the expenditure of printing and stationery is exorbitant, the Id.CIT(A) has deleted the disallowance without assigning any reason. In light of the above, the order of the Id.CIT(A) is not justified and hence prayed for set aside and to confirm the order of the AO.

8. Per Contra, the Id.AR for the assessee, submitted that the provisions of section 13(3) cannot be invoked in respect of the charitable trusts, which are registered u/s.12AA of the Act merely for the fact that the trusts are having common trustees.

9. Regarding disallowance of expenses, the Id.AR for the assessee submitted that the same was incurred on travel of the volunteers for foreign travel and the charges of boarding and lodging for the trustees/EC members

paid directly to the service providers and occasionally reimbursed to trustees/EC members in case the booking is made by the trustees/EC members. Hence, the expenses are incurred for the purpose of achieving the objects of the Trust and there is no violation of section 13(1)(c) of the Act. Therefore, the Id.CIT(A) after perusal of the records and submissions of the assessee has rightly deleted the disallowance and hence there is no reason to interfere in the orders of the Id.CIT(A) in deleting the addition.

10. In respect of the disallowance of depreciation, the Id.AR contended that the said expenditure is disallowed without giving any reasons by the AO. The Id.CIT(A) has deleted the disallowance of depreciation after verification of books of accounts and the fixed assets schedule submitted by the assessee during the assessment proceedings itself. Hence, the Id.AR prayed for confirming the order of the Id.CIT(A) based on the facts as well as various judicial precedents relied by the Id.CIT(A) to decide the appeal in favour of the assessee.

11. We have carefully considered the rival submissions advanced by both sides and have perused the material available on record, including the orders of the authorities and the submissions filed by the assessee during the course of appellate proceedings. It is undisputed fact that the assessee trust is registered u/s.12AA of the Act and hence claiming its income as exempt u/s.11 of the Act.

12. The revenue's main contention is the Id. CIT(A) has erred deleting the disallowance of Consultancy Fee amounting to Rs. 2,13,87,456/- which has been paid to tele callers for collection of donations to the trust. We find that the disallowance was made by the AO on the ground that the nature of services provided by the said persons was similar to the employees working in call centres hence the entire expenditure was disallowed. However, as submitted by the Id.AR, the assessee's has incurred these expenses which are paid to 8 types of services provided by the various professional groups as mentioned by the AO in the assessment order and payment to tele callers is one of the 8 types of

payments. But the AO has disallowed the entire payment treating the same as payment to tele callers. As stated by the Id.AR the assessee does not accept the corporate and govt. donations, and all the donors are individuals contributing small amount every month or regularly and most of the donors are local donors. Hence raising money and campaign activity involves tele callers, campaigners, recruiters etc. The objective of the team is to enroll and retain donors and to engage them meaningfully in the achieving the objects of assessee trust. We find that the Id.CIT(A) has observed that it is the campaign and fund-raising model which has been developed and refined over the years by the assessee. Further, it is also noted that donor data base is to be maintained since, the donations are accepted only through direct bank debits, credit card or cheque/DD. We also note that the AO has not doubted the collection of the donations or not showing the donations in the gross receipts of the assessee in the financials. The assessee claimed that all the details of persons to whom the professional and consultancy payment were made, were submitted to the AO during assessment proceedings; TDS is deducted from the said payments and the books of accounts are audited and the genuineness and authenticity of the payments were not questioned by the AO. Therefore, in the present facts of the case, we do not find any infirmity in the order of the Id.CIT(A) in deleting the addition made by the AO on the above grounds. Hence the ground of appeal raised by the Revenue is dismissed.

13. The next ground of the revenue is deletion of adhoc addition of Rs.5,05,810/- made by the AO on account of disallowance of printing and stationery charges. On perusal of the order of the AO the disallowance was made on the ground that the assessee conducts the activities through electronic mode only. We find that the assessee has submitted during appellate proceedings that the said expenses include cost of essential stationary, photocopy, printing in connection with the programmes conducted etc, which is generally required in any office. The Id.CIT(A) has observed that the books of

accounts of the assessee are audited and the same are not rejected by the AO and hence the adhoc disallowance without pointing out any defect is not justified. In view of the above, we are of the considered view that the Id.CIT(A) has rightly deleted the addition made by the AO and hence there is no reason to interfere in the orders of the Id.CIT(A) on this ground. Hence the grounds of appeal raised by the Revenue is dismissed.

14. Regarding per diem & subsistence expenses to the extent of Rs.3,55,741/- on the ground that the said expenses were incurred for others who are not employees of the assessee, we find that the Id.AR submitted during appellate proceedings that the said expenses are reimbursement of food expenses incurred by volunteers and consultants. The assessee claimed that all the details were submitted to the AO during assessment proceedings. We find that the expenses are incurred for the activities of the assessee and the genuineness of the same is not doubted by the AO. The Id.CIT(A) has also observed that these are general expenses incurred by the assessee during the camps and other programs of the trust and properly recorded in the audited books of accounts of the assessee. Hence, the Id.CIT(A) has deleted the addition made by the AO. In the present facts of the case, considering that the assessee is a charitable trust and carrying on all the activities in the fields regularly, the expenses of this nature is common and hence the Id.CIT(A) has rightly deleted the disallowance. Therefore, we do not find any infirmity in the order of the Id.CIT(A) and hence we confirm the order of the Id.CIT(A) by dismissing the grounds of appeal filed by the revenue.

15. In the result the appeal filed by the Revenue stands dismissed.

Order pronounced in the court on 25th August, 2025 at Chennai.

Sd/-
(जॉर्ज जॉर्ज के)
(GEORGE GEORGE K)
उपाध्यक्ष /VICE PRESIDENT

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,
दिनांक/Dated, the 25th August, 2025
jk

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT- Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF