

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND  
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 31/Chny/2025  
निर्धारण वर्ष / Assessment Year: 2022-23

<b>Zenith Public School</b> 106/D-3, Seetharamapalayam-Post, Sankari Road, Tiruchengode, Namakkal – 637 001. Tamil Nadu.	vs.	<b>Income Tax Officer,</b> Exemption Ward, Salem.
<b>[PAN: AAATZ-0831-E]</b> (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. P.M Kathir, Advocate and Mr.  
G. Akash, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Ms. Anitha, Addl. CIT.

सुनवाई की तारीख/Date of Hearing : 28.07.2025  
घोषणा की तारीख/Date of Pronouncement : 02.09.2025

**आदेश /ORDER**

**PER S. R. RAGHUNATHA, AM :**

This appeal by the assessee is filed against the order of the learned Commissioner of Income Tax (Appeal), NFAC, Delhi, (in short "Ld.CIT(A)") for the assessment year 2022-23, vide order dated 30.08.2024.

2. At the outset, we find that there is a delay of 67 days in appeal filed by the assessee, for which petition for condonation of delay along with reasons. The assessee submitted an affidavit for the delay stating that the assessee trust's Managing Trustee that the delay occurred due to the illness of the Managing Trustee and prayed that the delay be condoned. After considering the petition filed by the assessee and also hearing both the parties, we find that there is a

reasonable cause for the assessee in not filing appeal on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeal and admit appeal filed by the assessee for adjudication.

3. The grounds raised by the assessee are as follows:

- 1) *The Commissioner of Income-tax (Appeals) is not justified in confirming addition of Rs.10,28,208/- made to assessee trust's income in the circumstances of the case.*
- 2) *Commissioner (Appeals) ought not to have assumed that cost of construction of building might have been claimed as an application.*
- 3) *Managing Trustee P.S Shanmugam having provided to the Trust, amounts borrowed by him from bank, reimbursement of interest paid by him to bank, ought to have been allowed.*
- 4) *It is not correct to have assumed that there was a repayment of funds made by the Trust to Managing Trustee.*
- 5) *Interest paid was only towards attaining objects of the Trust, registered under section 12AA.*

*For these and other reasons which may be stated, at the time of hearing of the appeal, it is prayed that the addition of Rs. 10,28,208/- made to income may kindly to deleted.*

4. The facts in brief are that the assessee is a charitable trust, which filed its Return of income for the Assessment Year (AY) on 10.10.2022 and the same was selected for scrutiny. During the scrutiny assessment proceedings, the AO called for various details from the assessee, which were duly furnished. The assessee had filed a letter dated 18.04.2023 with the AO, wherein it stated that against the total receipts of Rs.98,20,749/- during the year the assessee incurred expenses of Rs.22,41,070/- and the excess income was applied towards repayment of loan to the extent of Rs.75,79,679/-. The assessee also provided break-up of the same which included repayment of loan availed from one Mr.P.Shanmugam, who is the managing trustee. The assessee had submitted that since the banks were reluctant to lend to the assessee any loan, the loans were borrowed by Mr. P.Shanmugam, who then advanced the same to the assessee. As such, the payment of Rs.43,74,799/- to Mr. P.Shanmugam, which included interest payment of Rs.10,16,097/- was claimed as application by the assessee during the year. In support of the same, the assessee furnished

the loan accounts of Mr. P.Shanmugam with the RBL for the F.Y.2021-22 and Mr.P.Shanmugam's financials wherein the interest paid against these loans have been declared as expenses and the interest received from the assessee has also been recorded as receipts.

5. The AO has then issued a show-cause notice dated 14.02.2024, wherein he had merely stated the following;

“VARIATION PROPOSED:

*1. Repayment of large amount of fund has been used as application of receipt by the trust which is not allowable as per explanation 4 of section 11 of Income Tax Act, 1961.*

*Trust has shown an amount of Rs.10,28,208/- as repayment of loan which is not an allowable expenditure thus will be added back to the total income of the assessee.*

*Please justify with documentary evidences as to why this amount should not be added to the total income of the assessee.”*

6. The assessee filed its reply dated 20.02.2024 submitting that the sum Rs.10,28,208/- represented the interest paid to the extent of Rs.10,17,911/- and late fees of Rs.10,710/-. It prayed that the same be allowed as application and the variation as proposed be dropped. However, the AO went on to make the addition of Rs.10,28,208/- stating that the repayment of loan is not an allowable expenditure as per Explanation 4 to section 11.

7. Before the Id.CIT(A), the assessee filed its written submissions explaining that out the borrowings from Mr.P.Shanmugam, the assessee met the cost of construction of the building, which was not claimed as application by the assessee and hence, explanation 4 does not restrict the assessee's claim. However, the Id.CIT(A) dismissed the appeal by stating that the assessee had failed to submit if the cost of construction had already been claimed as application of income and if the same had already been claimed, the assessee cannot claim repayment of loan as application as that would tantamount to claim of application twice. The Id.CIT(A) further stated that it was not known if the assessee had included the receipt of loan as receipts in the P&L A/c. and thus upheld the disallowance made by the AO.

8. Before us, the Ld. AR explained that the sum disallowed as application by the AO of Rs.10,28,208/- represented the interest paid to the extent of Rs.10,17,911/- and late fees of Rs.10,710/- and that the same was not repayment of loan. He submitted that it is only the repayment of loan which is governed by explanation 4 to section 11 and not the interest paid on such loan. Since there was no bar in claiming the interest payments as application of income, he prayed that the same be allowed and the addition be deleted.

9. On the other hand, the Ld. DR submitted that the AO has only disallowed the loan repayment and not the interest payment by the assessee. She also filed written submissions in support of her arguments, wherein she has submitted that in the show-cause notice, the AO has mentioned only part of repayment being interest amount of Rs.10,28,208/- amount. She further submitted that the AO has mistakenly took the amount of interest at Rs.10,28,208/- as against the loan amount repaid during the year of Rs.75,14,899/-. She further submitted that the Ld. AR's argument that what the AO has disallowed is interest payments alone is incorrect as the AO has only sought to disallow the repayment of loan as per explanation 4 to section 11. She thus prayed for upholding the order of assessment.

10. We have heard both the sides and perused the materials available on record. During the F.Y.2021-22, the assessee has claimed repayment of loan and interest payments, amounting to Rs.75,14,899/- as application of income. During the assessment proceedings, as stated above, the assessee had filed a letter dated 18.04.2023 wherein it duly submitted that it had paid interest on the loans taken from Mr.P.Shanmugam along with the loan amount repaid. Thereafter, in reply to the show-cause notice, it submitted that interest and late fees totaling to Rs.10,28,621/- were paid during the year. Even after these submissions were filed, the AO has only disallowed a sum of Rs.10,28,208/- from application of income citing explanation 4 to section 11.

11. The Ld. AR has submitted that explanation 4 to section 11 does not restrict the claim of interest payments as application of income in any manner and that the same is only applicable to repayment of the loan borrowed. We accept the Ld. AR's contention as the assessee had in two of its submissions during the assessment proceedings made clear that interest and late fees totaling to Rs.10,28,621/- were paid during the year to Mr.P.Shanmugam. When the AO has gone on to specifically disallow this amount from application of income, the Ld.DR's submission that the AO sought to disallow the entire loan repayment of Rs.75,14,899/- and by a typographical error has only disallowed Rs.10,28,208/- cannot be accepted.

12. Furthermore, even if the argument of the Ld.DR that the loan repayment was sought to be disallowed by the AO was to be accepted, before the Id.CIT(A) the assessee had submitted that out of the borrowings from Mr.P.Shanmugam, the assessee met the cost of construction of the building, which was not claimed as application. However, the Id.CIT(A) has contrarily recorded in his order that the assessee had failed to submit if the cost of construction had already been claimed as application of income. Hence, even this argument, which we hold was not the case of the AO, and hence fails. Further, we find that the assessee in his paper book (Page No.9 of the PB) shown that the loan repayment of Rs.75,14,899/- paid during the year and hence it is allowable as an application of income.

13. Thus, the addition has been made by the AO by incorrectly disallowing the payment of interest of Rs.10,28,208/- which has been claimed as application of income by the assessee as revenue expenditure. Since explanation 4 to section 11 does not bar the claim of interest payments as application of income, the addition cannot be sustained, and we set aside the order of the Id.CIT(A) and direct the AO to delete the same.

14. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the court on 02<sup>nd</sup> September, 2025 at Chennai.

Sd/-  
(मनु कुमार गिरि)  
**(MANU KUMAR GIRI)**  
न्यायिक सदस्य/**Judicial Member**

Sd/-  
(एस. आर. रघुनाथा)  
**(S.R.RAGHUNATHA)**  
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 02<sup>nd</sup> September, 2025

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