**IN THE INCOME TAX APPELLATE TRIBUNAL**
**ALLAHABAD BENCH, ALLAHABAD**

**BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**
**AND SHRI NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA Nos.50, 51, 52, 53 & 54/ALLD/2023
Assessment Years:2012-13, 2013-14, 2014-15, 2015-16 & 2016-17.

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| Sanjana<br>D/o Surendra Nath Sharma<br>Kriya Yog Ashram & Research Institute<br>Jhunsi, Allahabad (U.P) | v. | The Income Tax Officer<br>Ward 1(5)<br>Allahabad |
| PAN:CTPPS6187L | | |
| (Appellant) | | (Respondent) |

ITA Nos.5, 6, 7, 8 & 9/ALLD/2023
Assessment Years: 2012-13, 2013-14, 2014-15, 2015-16 & 2016-17

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| Yogi Satyam<br>S/o Shri Dal Singar Singh<br>Kriya Yog Ashram & Research Institute<br>Jhunsi, Allahabad (U.P) | v. | The Income Tax Officer<br>Ward 1(5)<br>Allahabad |
| PAN:BECPS4989F | | |
| (Appellant) | | (Respondent) |

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| Appellant by: | Dr. Pawan Jaiswal and Shri Ajit Kumar, Advocate |
| Respondent by: | Shri A. K. Singh, D.R. |

**O R D E R**

**PER BENCH:**

These TEN appeals have been preferred by two different assessees. The appeals in ITA Nos.50 to 54/Alld/2023 in the case of Sanjana are directed against separate orders, all dated 06.03.2023, passed by the National Faceless Appeal Centre (NFAC), Delhi for assessment years 2012-13, 2013-14, 2014-15,

2015-16 & 2016-17. The appeals in ITA Nos.5 to 9/Alld/2023 in the case of Yogi Satyam are directed against separate orders, dated 25.11.2022, passed by the National Faceless Appeal Centre (NFAC), Delhi for assessment years 2012-13, 2013-14, 2014-15 & 2015-16 and order dated 29.11.2022, passed by the NFAC for assessment year 2016-17

2.0 Since the facts and the issues involved in the above captioned appeals are almost identical, therefore, they were taken up together for hearing and are being disposed of through this common order for the sake of convenience.

3.0 First, we will deal with the issues involved in the case of Sanjana in ITA Nos.50 to 54/Alld/2023.

3.1 First we will take up the appeal in ITA No.50/Alld/2023 for assessment year 2012-13. The brief facts are that the assessee was a spiritual teacher of Kriya Yog Ashram & Research Institute, Jhunsi, Allahabad, a non-profit organization established with the solemn objective of spreading Kriyayoga Science Worldwide. The Income Tax Department was in possession of information that the assessee had deposited an amount aggregating to Rs.2,48,58,413/- in three different bank accounts during the year under consideration. However, no return of income had been filed by the assessee for the year

under consideration. In this regard, the averment of the assessee before the Assessing Officer (AO) was that she was an NRI and, therefore, the income earned by her was not taxable in India. However, from the details gathered by the AO, it was found that the status of the assessee was that of resident in India and, therefore, the AO was of the view that the income earned by the assessee was liable to be taxed in India on her global income. Since the assessee had not filed her return of income for the year under consideration, the AO issued notice under section 148 of the Income Tax Act, 1961 (hereinafter called "the Act') to the assessee and reopened the case of the assessee under section 147 of the Act. In compliance to the notice under section 148 of the Act, the assessee filed her return of income on 26.04.2019 declaring income from other sources at Rs.1,39,650/-. During the course of assessment proceedings, the AO noticed that there were excess of receipts over payments to the tune of Rs.47,03,380/-, which was treated as income of the assessee and after reducing the amount of Rs.1,39,650/- (the amount returned by the assessee as income from other sources) from Rs.47,03,380/-, the difference amount of Rs.45,63,730/- (47,03,380 – 1,39,650) was added to the income of the assessee. Further, the AO noticed that the assessee had withdrawn cash of Rs.8.00 lakhs on account of payments made in cash for different

day-to-day expenses including vouchers, for more than Rs.20,000/-. Since the assessee could not furnish all the vouchers for expenses, the AO disallowed 5% of the payments made by the assessee in cash, i.e., 5% of Rs.8.00 lakhs, which came to Rs.40,000/- and the same was also added to the income of the assessee. The AO completed the assessment under section 143(3)/147 of the Act, assessing the total income of the assessee at Rs.47,43,380/-.

3.2 Aggrieved, the Assessee preferred an appeal before the NFAC, which dismissed the appeal of the assessee and confirmed the order of the AO.

3.3 Now, the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

> *1. BECAUSE the CIT(A) has erred in law as well as on facts in upholding the validity of the proceedings that has been invoked under section 147 of the Act against the appellant on the ground that substantial amount has been deposited by the appellant in her bank account and no return has been filed by the appellant, as the appellant has very meager income which is below the maximum exemption limit and she was not require to file her return in regular course.*
>
> *2. BECAUSE the CIT(A) has erred in law as well as on facts in sustaining the addition of Rs.45,63,730/- (after adjusting*

*the returned income disclosed by the appellant) which was made by the ld. Assessing Officer in the assessment order dated 27.12.2019 by observing that;*

> *7.2.11 Considering the above comprehensive and all inclusive meaning of income from the perspective of taxation, it would not be incorrect to say that all receipts are considered as income for the purpose of taxation, unless specifically exempt under the income tax act. In the case of the appellant, admittedly she is not involved in any business activities or profit making enterprise. Nevertheless, she is in receipt of certain amounts, which can only be treated as her income as they are received in her bank account. Out of these receipts, various payments have been made, which by the same reasoning has been treated, after verification of the evidence given, as her expenditure by the Assessing Officer. At the end of this exercise, as the receipts exceeded the payments, the only logical conclusion that can be drawn, and has been drawn, by the AO is to treat the surplus as the taxable income of the appellant.*

*without controverting the fact that the entire receipts in the bank accounts from explained sources pertains to Kriya Yog Trust and Ashram meant for utilization for the said trust only and no money has been utilized for the personal benefits of the appellant.*

*3. BECAUSE utilization of funds by the appellant out of receipts collected in her accounts in the fiduciary capacity on behalf of the Kriya Yog Trust and Ashram is a continuous activity as there is overall utilization in the subsequent years*

*too. Merely entire receipts have not been expended during the year itself could not be ground for making any such addition in the income for taxation.*

*4. BECAUSE the CIT(A) has miserably failed to judge the receipts by appellant in her bank account in the fiduciary capacity and custodian of money on behalf of Kriya Yog Trust and Ashram, so surplus could not be taxable as income in her hand, by observing that "This is akin to saying, for example that "the money in my bank account is meant to be donated to charity and hence it is not my income" which, according to the principles of taxation of income is not an acceptable proposition"*

*5. BECAUSE the CIT(A) has completely erred in law as well as on facts in treating the excess of receipts over utilization as income of the appellant on the fallacious ground that "in the absence of any documentary evidence, or any legal title established by the institution/ashram to the amounts in the appellant's bank accounts. nor can it lead to exempting the recipient from the ambit of taxation. The intended destination or anticipated purpose of the receipts does not alter the taxability of the same in the recipient's hands".*

*6. BECAUSE both the authorities have not disputed the receipts and utilization during the year are for the purposes of Kriya Yog Ashram and when there is and admitted fact that the appellant is involved in teaching and preaching the art of Kriyayog and not doing any business activities.*

*7. BECAUSE the excess of receipts over utilization is an ongoing process merely that some part of the current receipts are not fully utilized, the nature and character of receipts*

*does not change, the CIT(A) has erred in law as well as on facts in treating the same as income u/s 2(24) r.w.s 56 of the Act liable for taxation during the year under consideration.*

*8. BECAUSE the CIT(A) failed to appreciate the facts and circumstances of the case and position of law, as most of the voluntary donations received by Kriya Yog Ashram/ Trust are from that foreign nationals who have donated the same out of the income on which taxes have been duly paid under their statute and the same has been acknowledged by the Id. Assessing Authority in the Assessment Order dated 27.12.2019, accordingly, any addition on account of difference of receipt and payments for the year under consideration (which is with the appellant merely in the capacity as a custodian of money of the ashram) was is totally illegal, arbitrary, and uncalled for.*

*9. BECAUSE merely non-filing of balance sheet by the appellant, activities carried out by her in fiduciary capacity for and on behalf of Kriya Yog Ashram and Trust could not have been adversely viewed as also made the appellant liable for taxation of the difference of receipts over utilization during the year.*

*10. BECAUSE the CIT(A) has grievously erred in upholding the addition of Rs.40,000/- on adhoc basis being 5% of the overall cash withdrawal during the year, as the payments made by the appellant during the year has not been disputed by him while passing the assessment order u/s 143(3) read with section 147 of the Act.*

*11. BECAUSE after having verified all payments made by the appellant, there remains no scope of disallowance on*

*adhoc basis by the authorities below, the addition of Rs.40,000/- sustained by the CIT(A) is wholly erroneous and unjustified when the activities of Kriya Yog Ashram are not in dispute at all.*

*12. BECAUSE the CIT(A) failed to appreciate the facts of the case and appellate orders in the case of the appellant herself for Assessment Years 2010-11 & 2011-12 wherein under similar circumstances addition of entire deposits in the appellants bank account having been made by the ld. Assessing Officer by invoking section 69A of the Act has been deleted by observing as under;*

> *"The appellant has brought on record complete evidence to establish claims that the deposits in different bank accounts were connected with his Trust related transactions and he was simply a conduit. AO has failed to prove that appellant was engaged in any other personal activity during the year under consideration for which these deposits made by the devotees were used by appellant. Therefore, in my considered opinion, the said deposits are not unexplained as the source of these has been satisfactorily explained by the appellant. In view of these finding additions made u/s 69A of the Act is deleted."*

*As there being no change in facts and circumstance of the case, following the rule of consistency, addition sustained by the CIT(A) as made by the Id. Assessing Officer is wholly erroneous and unjustified.*

*13. BECAUSE the CIT(A) has erred in law as well as on facts in not applying the decision of the appellate authority for the*

*A.Y. 2010-11 & 2011-12 by erroneously observing that principles of res-judicata shall not apply as in the present case, assessment of particular year is final, complete and binding in relation to the assessment year in which the decision is given i.e. final and conclusive between the parties only in relation to that year, and on facts the same is distinguishable, although there is no change in the facts and circumstances of the case for the year under consideration vis-à-vis earlier assessment year.*

*14. BECAUSE the CIT(A) failed to appreciate the judgment of the Hon'ble Allahabad High Court in the case of CIT vs. Bithal Das Modi reported in [2005] 276 ITR 517 inspite of the fact that the case of the appellant is on a better footing as she has furnished meticulous details about the persons coming from abroad in his submissions which has been duly acknowledged and appreciated by authorities below, addition sustained on this ground is wholly arbitrary and unjustified and the same deserves to be deleted.*

*15. BECAUSE in any case judgment passed by the hon'ble jurisdictional high court in the case of Bithal Das Modi (supra) is having a binding precedence upon the authorities below, any deviation from the binding precedents set by the hon'ble jurisdictional high court is wholly illegal and arbitrary.*

*16. BECAUSE the order appealed against is contrary to the facts, law, principles of natural justice and against the binding precedence and decisions of hon'ble high courts and tribunal.*

*17. BECAUSE the addition so sustained by the CIT(A) in the impugned appellate order deserves to be set-aside and the return income disclosed by the appellant is liable to be sustained.*

4.0 In assessment year 2013-14 (ITA No.51/Alld/2023), the assessee in response to notice under section 148 of the Act, filed her return of income declaring a total income of Rs.2,28,760/-. In this year also, the AO disallowed 5% of the payments made by the assessee in cash, i.e., 5% of Rs.25,40,000/-, which came to Rs.1,27,000/- and the same was added to the income of the assessee. The AO completed the assessment under section 143(3)/147 of the Act, assessing the total income of the assessee at Rs.3,55,760/-.

4.1 Aggrieved, the Assessee preferred an appeal before the NFAC, which dismissed the appeal of the assessee and confirmed the order of the AO.

4.2 Now, the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

*1. BECAUSE the CIT(A) has erred in law as well as on facts in upholding the validity of the proceedings that has been invoked under section 147 of the Act against the appellant on the ground that substantial amount has been deposited by the appellant in her bank account and no return has been*

*filed by the appellant, as the appellant has very meager income which is below the maximum exemption limit and she was not require to file her return in regular course.*

*2. BECAUSE the CIT(A) has erred in law as well as on facts in observing that:*

> *7.2.11 Considering the above comprehensive and all inclusive meaning of income from the perspective of taxation, it would not be incorrect to say that all receipts are considered as income for the purpose of taxation, unless specifically exempt under the income tax act. In the case of the appellant, admittedly she is not involved in any business activities or profit making enterprise. Nevertheless, she is in receipt of certain amounts, which can only be treated as her income as they are received in her bank account. Out of these receipts, various payments have been made, which by the same reasoning has been treated, after verification of the evidence given, as her expenditure by the Assessing Officer. At the end of this exercise, as the receipts exceeded the payments, the only logical conclusion that can be drawn, and has been drawn, by the AO is to treat the surplus as the taxable income of the appellant.*

*without controverting the fact that the entire receipts in the bank accounts from explained sources pertains to Kriya Yog Trust and Ashram meant for utilization for the said trust only and no money has been utilized for the personal benefits of the appellant.*

*3. BECAUSE utilization of funds by the appellant out of receipts collected in her accounts in the fiduciary capacity on*

*behalf of the Kriya Yog Trust and Ashram is a continuous activity as there is overall utilization in the subsequent years too. Merely entire receipts have not been expended during the year itself could not be ground for making any such addition in the income for taxation.*

*4. BECAUSE the CIT(A) has completely erred in law as well as on facts in treating the excess of receipts over utilization as income of the appellant on the fallacious ground that "in the absence of any documentary evidence, or any legal title established by the institution/ashram to the amounts in the appellant's bank accounts, nor can it lead to exempting the recipient from the ambit of taxation. The intended destination or anticipated purpose of the receipts does not alter the taxability of the same in the recipient's hands.".*

*5. BECAUSE both the authorities have not disputed the receipts and utilization during the year are for the purposes of Kriya Yog Ashram and when there is and admitted fact that the appellant is involved in teaching and preaching the art of Kriyayog and not doing any business activities.*

*6. BECAUSE the excess of receipts over utilization is an ongoing process merely that some part of the current receipts are not fully utilized, the nature and character of receipts does not change, the CIT(A) has erred in law as well as on facts in treating the same as income u/s 2(24) r.w.s 56 of the Act liable for taxation during the year under consideration.*

*7. BECAUSE the CIT(A) failed to appreciate the facts and circumstances of the case and position of law, as most of the voluntary donations received by Kriya Yog Ashram/ Trust are from that foreign nationals who have donated the same*

*out of the income on which taxes have been duly paid under their statute and the same has been acknowledged by the ld. Assessing Authority in the Assessment Order dated 28.12.2019, accordingly, any addition on account of difference of receipt and payments for the year under consideration (which is with the appellant merely in the capacity as a custodian of money of the ashram) was is totally illegal, arbitrary, and uncalled for.*

*8. BECAUSE merely non-filing of balance sheet by the appellant, activities carried out by her in fiduciary capacity for and on behalf of Kriya Yog Ashram and Trust could not have been adversely viewed as also made the appellant liable for taxation of the difference of receipts over utilization during the year.*

*9. BECAUSE the CIT(A) has grievously erred in upholding the addition of Rs.1,27,000/- on adhoc basis being 5% of the overall cash withdrawal during the year, as the payments made by the appellant during the year has not been disputed by him while passing the assessment order u/s 143(3) read with section 147 of the Act.*

*10. BECAUSE after having verified all payments made by the appellant, there remains no scope of disallowance on adhoc basis by the authorities below, the addition of Rs.1,27,000/- sustained by the CIT(A) is wholly erroneous and unjustified when the activities of Kriya Yog Ashram are not in dispute at all.*

*11. BECAUSE the CIT(A) failed to appreciate the facts of the case and appellate orders in the case of the appellant herself for Assessment Years 2010-11 & 2011-12 wherein under*

*similar circumstances addition of entire deposits in the appellants bank account having been made by the Id. Assessing Officer by invoking section 69A of the Act has been deleted by observing as under;*

> *"The appellant has brought on record complete evidence to establish claims that the deposits in different bank accounts were connected with his Trust related transactions and he was simply a conduit. AO has failed to prove that appellant was engaged in any other personal activity during the year under consideration for which these deposits made by the devotees were used by appellant. Therefore, in my considered opinion, the said deposits are not unexplained as the source of these has been satisfactorily explained by the appellant. In view of these finding additions made u/s 69A of the Act is deleted."*

*As there being no change in facts and circumstance of the case, following the rule of consistency, addition sustained by the CIT(A) as made by the ld. Assessing Officer is wholly erroneous and unjustified.*

*12. BECAUSE the CIT(A) has erred in law as well as on facts in not applying the decision of the appellate authority for the A.Y. 2010-11 & 2011-12 by erroneously observing that principles of res-judicata shall not apply as in the present case, assessment of particular year is final, complete and binding in relation to the assessment year in which the decision is given i.e. final and conclusive between the parties only in relation to that year, and on facts the same is distinguishable, although there is no change in the facts and*

*circumstances of the case for the year under consideration vis-à-vis earlier assessment year.*

*13. BECAUSE the CIT(A) failed to appreciate the judgment of the Hon'ble Allahabad High Court in the case of CIT vs. Bithal Das Modi reported in [2005] 276 ITR 517 inspite of the fact that the case of the appellant is on a better footing as she has furnished meticulous details about the persons coming from abroad in his submissions which has been duly acknowledged and appreciated by authorities below, addition sustained on this ground is wholly arbitrary and unjustified and the same deserves to be deleted.*

*14. BECAUSE in any case judgment passed by the hon'ble jurisdictional high court in the case of Bithal Das Modi (supra) is having a binding precedence upon the authorities below, any deviation from the binding precedents set by the hon'ble jurisdictional high court is wholly illegal and arbitrary.*

*15. BECAUSE the order appealed against is contrary to the facts, law, principles of natural justice and against the binding precedence and decisions of hon'ble high courts and tribunal.*

*16. BECAUSE the addition so sustained by the CIT(A) in the impugned appellate order deserves to be set-aside and the return income disclosed by the appellant is liable to be sustained.*

5.0 In assessment year 2014-15 (ITA No.52/Alld/2023), the assessee, in response to notice under section 148 of the Act, filed her return of income declaring a total income of Rs.1,58,080/-.

In this year also, the AO disallowed 5% of the payments made by the assessee in cash, i.e., 5% of Rs.27,25,000/-, which came to Rs.1,36,250/- and the same was added to the income of the assessee. In this year, the AO noticed that there were excess of receipts over payments to the tune of Rs.4,27,155/-, which was treated as income of the assessee and after reducing the amount of Rs.1,58,080/- (the amount returned by the assessee as income from other sources) from Rs.4,27,155/-, the difference amount of Rs.2,69,075/- (4,27,155 – 1,58,080) was added to the income of the assessee. The AO completed the assessment under section 143(3)/147 of the Act, assessing the total income of the assessee at Rs.5,63,400/-.

5.1 Aggrieved, the Assessee preferred an appeal before the NFAC, which dismissed the appeal of the assessee and confirmed the order of the AO.

5.2 Now, the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

> *1. BECAUSE the CIT(A) has erred in law as well as on facts in upholding the validity of the proceedings that has been invoked under section 147 of the Act against the appellant on the ground that substantial amount has been deposited by the appellant in her bank account and no return has been*

*filed by the appellant, as the appellant has very meager income which is below the maximum exemption limit and she was not require to file her return in regular course.*

*2. BECAUSE the CIT(A) has erred in law as well as on facts in sustaining the addition of Rs.2,69,075/- (after adjusting the returned income disclosed by the appellant) which was made by the ld. Assessing Officer in the assessment order dated 28.12.2019 by observing that;*

> *7.2.11 Considering the above comprehensive and all inclusive meaning of income from the perspective of taxation, it would not be incorrect to say that all receipts are considered as income for the purpose of taxation, unless specifically exempt under the income tax act. In the case of the appellant, admittedly she is not involved in any business activities or profit making enterprise. Nevertheless, she is in receipt of certain amounts, which can only be treated as her income as they are received in her bank account. Out of these receipts, various payments have been made, which by the same reasoning has been treated, after verification of the evidence given, as her expenditure by the Assessing Officer. At the end of this exercise, as the receipts exceeded the payments, the only logical conclusion that can be drawn, and has been drawn, by the AO is to treat the surplus as the taxable income of the appellant.*

*without controverting the fact that the entire receipts in the bank accounts from explained sources pertains to Kriya Yog Trust and Ashram meant for utilization for the said trust only*

*and no money has been utilized for the personal benefits of the appellant.*

*3. BECAUSE utilization of funds by the appellant out of receipts collected in her accounts in the fiduciary capacity on behalf of the Kriya Yog Trust and Ashram is a continuous activity as there is overall utilization in the subsequent years too. Merely entire receipts have not been expended during the year itself could not be ground for making any such addition in the income for taxation.*

*4. BECAUSE the CIT(A) has miserably failed to judge the receipts by appellant in her bank account in the fiduciary capacity and custodian of money on behalf of Kriya Yog Trust and Ashram, so surplus could not be taxable as income in her hand, by observing that "This is akin to saying, for example that "the money in my bank account is meant to be donated to charity and hence it is not my income" which, according to the principles of taxation of income is not an acceptable proposition"*

*5. BECAUSE the CIT(A) has completely erred in law as well as on facts in treating the excess of receipts over utilization as income of the appellant on the fallacious ground that "in the absence of any documentary evidence, or any legal title established by the institution/ashram to the amounts in the appellant's bank accounts. nor can it lead to exempting the recipient from the ambit of taxation. The intended destination or anticipated purpose of the receipts does not alter the taxability of the same in the recipient's hands."*

*6. BECAUSE both the authorities have not disputed the receipts and utilization during the year are for the purposes*

*of Kriya Yog Ashram and when there is and admitted fact that the appellant is involved in teaching and preaching the art of Kriyayog and not doing any business activities.*

*7. BECAUSE the excess of receipts over utilization is an ongoing process merely that some part of the current receipts are not fully utilized, the nature and character of receipts does not change, the CIT(A) has erred in law as well as on facts in treating the same as income u/s 2(24) r.w.s 56 of the Act liable for taxation during the year under consideration.*

*8. BECAUSE the CIT(A) failed to appreciate the facts and circumstances of the case and position of law, as most of the voluntary donations received by Kriya Yog Ashram/ Trust are from that foreign nationals who have donated the same out of the income on which taxes have been duly paid under their statute and the same has been acknowledged by the ld. Assessing Authority in the Assessment Order dated 28.12.2019, accordingly, any addition on account of difference of receipt and payments for the year under consideration (which is with the appellant merely in the capacity as a custodian of money of the ashram) was is totally illegal, arbitrary, and uncalled for.*

*9. BECAUSE merely non-filing of balance sheet by the appellant, activities carried out by her in fiduciary capacity for and on behalf of Kriya Yog Ashram and Trust could not have been adversely viewed as also made the appellant liable for taxation of the difference of receipts over utilization during the year.*

*10. BECAUSE the CIT(A) has grievously erred in upholding the addition of Rs.1,36,250/-on adhoc basis being 5% of the*

*overall cash withdrawal during the year, as the payments made by the appellant during the year has not been disputed by him while passing the assessment order u/s 143(3) read with section 147 of the Act.*

*11. BECAUSE after having verified all payments made by the appellant, there remains no scope of disallowance on adhoc basis by the authorities below, the addition of Rs.1,36,250/- sustained by the CIT(A) is wholly erroneous and unjustified when the activities of Kriya Yog Ashram are not in dispute at all.*

*12. BECAUSE the CIT(A) failed to appreciate the facts of the case and appellate orders in the case of the appellant herself for Assessment Years 2010-11 & 2011-12 wherein under similar circumstances addition of entire deposits in the appellants bank account having been made by the Id. Assessing Officer by invoking section 69A of the Act has been deleted by observing as under;*

> *"The appellant has brought on record complete evidence to establish claims that the deposits in different bank accounts were connected with his Trust related transactions and he was simply a conduit. AO has failed to prove that appellant was engaged in any other personal activity during the year under consideration for which these deposits made by the devotees were used by appellant. Therefore, in my considered opinion, the said deposits are not unexplained as the source of these has been satisfactorily explained by the appellant. In view of these finding additions made u/s 69A of the Act is deleted."*

*As there being no change in facts and circumstance of the case, following the rule of consistency, addition sustained by the CIT(A) as made by the Id. Assessing Officer is wholly erroneous and unjustified.*

*13. BECAUSE the CIT(A) has erred in law as well as on facts in not applying the decision of the appellate authority for the A.Y. 2010-11 & 2011-12 by erroneously observing that principles of res-judicata shall not apply as in the present case, assessment of particular year is final, complete and binding in relation to the assessment year in which the decision is given i.e. final and conclusive between the parties only in relation to that year, and on facts the same is distinguishable, although there is no change in the facts and circumstances of the case for the year under consideration vis-à-vis earlier assessment year.*

*14. BECAUSE the CIT(A) failed to appreciate the judgment of the Hon'ble Allahabad High Court in the case of CIT vs. Bithal Das Modi reported in [2005] 276 ITR 517 inspite of the fact that the case of the appellant is on a better footing as she has furnished meticulous details about the persons coming from abroad in his submissions which has been duly acknowledged and appreciated by authorities below, addition sustained on this ground is wholly arbitrary and unjustified and the same deserves to be deleted.*

*15. BECAUSE in any case judgment passed by the hon'ble jurisdictional high court in the case of Bithal Das Modi (supra) is having a binding precedence upon the authorities below, any deviation from the binding precedents set by the*

*hon'ble jurisdictional high court is wholly illegal and arbitrary.*

*16. BECAUSE the order appealed against is contrary to the facts, law, principles of natural justice and against the binding precedence and decisions of hon'ble high courts and tribunal.*

*17. BECAUSE the addition so sustained by the CIT(A) in the impugned appellate order deserves to be set-aside and the return income disclosed by the appellant is liable to be sustained.*

6.0 In assessment year 2015-16 (ITA No.53/Alld/2023), the assessee in response to notice under section 148 of the Act, filed her return of income declaring a total income of Rs.66,570/-. In this year also, the AO disallowed 5% of the payments made by the assessee in cash, i.e., 5% of Rs.10,50,000/-, which came to Rs.52,500/- and the same was added to the income of the assessee. In this year, the AO noticed that there were excess of receipts over payments to the tune of Rs.4,44,003/-, which was treated as income of the assessee and after reducing the amount of Rs.66,570/- (the amount returned by the assessee as income from other sources) from Rs.4,44,003/-, the difference amount of Rs.3,77,433/- (4,44,003 – 66,570) was added to the income of the assessee. The AO completed the assessment under section

143(3)/147 of the Act, assessing the total income of the assessee at Rs.4,96,500/-.

6.1 Aggrieved, the Assessee preferred an appeal before the NFAC, which dismissed the appeal of the assessee and confirmed the order of the AO.

6.2 Now, the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

> *1. BECAUSE the CIT(A) has erred in law as well as on facts in upholding the validity of the proceedings that has been invoked under section 147 of the Act against the appellant on the ground that substantial amount has been deposited by the appellant in her bank account and no return has been filed by the appellant, as the appellant has very meager income which is below the maximum exemption limit and she was not require to file her return in regular course.*
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> *2. BECAUSE the CIT(A) has erred in law as well as on facts in sustaining the addition of Rs.3,77,433/- (after adjusting the returned income disclosed by the appellant) which was made by the ld. Assessing Officer in the assessment order dated 28.12.2019 by observing that;*
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> > *7.2.9 Considering the above comprehensive and all inclusive meaning of income from the perspective of taxation, it would not be incorrect to say that all receipts are considered as income for the purpose of taxation, unless specifically exempt under the income tax act. In*

*the case of the appellant, admittedly she is not involved in any business activities or profit making enterprise. Nevertheless, she is in receipt of certain amounts, which can only be treated as her income as they are received in her bank account. Out of these receipts, various payments have been made, which by the same reasoning has been treated, after verification of the evidence given, as her expenditure by the Assessing Officer. At the end of this exercise, as the receipts exceeded the payments, the only logical conclusion that can be drawn, and has been drawn, by the AO is to treat the surplus as the taxable income of the appellant.*

*without controverting the fact that the entire receipts in the bank accounts from explained sources pertains to Kriya Yog Trust and Ashram meant for utilization for the said trust only and no money has been utilized for the personal benefits of the appellant.*

*3. BECAUSE utilization of funds by the appellant out of receipts collected in her accounts in the fiduciary capacity on behalf of the Kriya Yog Trust and Ashram is a continuous activity as there is overall utilization in the subsequent years too. Merely entire receipts have not been expended during the year itself could not be ground for making any such addition in the income for taxation.*

*4. BECAUSE the CIT(A) has miserably failed to judge the receipts by appellant in her bank account in the fiduciary capacity and custodian of money on behalf of Kriya Yog Trust and Ashram, so surplus could not be taxable as income in her hand, by observing that "This is akin to saying, for*

*example that "the money in my bank account is meant to be donated to charity and hence it is not my income" which, according to the principles of taxation of income is not an acceptable proposition"*

*5 BECAUSE the CIT(A) has completely erred in law as well as on facts in treating the excess of receipts over utilization as income of the appellant on the fallacious ground that "in the absence of any documentary evidence, or any legal title established by the institution/ashram to the amounts in the appellant's bank accounts, nor can it lead to exempting the recipient from the ambit of taxation. The intended destination or anticipated purpose of the receipts does not alter the taxability of the same in the recipient's hands".*

*6. BECAUSE both the authorities have not disputed the receipts and utilization during the year are for the purposes of Kriya Yog Ashram and when there is and admitted fact that the appellant is involved in teaching and preaching the art of Kriyayog and not doing any business activities.*

*7. BECAUSE the excess of receipts over utilization is an ongoing process merely that some part of the current receipts are not fully utilized, the nature and character of receipts does not change, the CIT(A) has erred in law as well as on facts in treating the same as income u/s 2(24) r.w.s 56 of the Act liable for taxation during the year under consideration.*

*8. BECAUSE the CIT(A) failed to appreciate the facts and circumstances of the case and position of law, as most of the voluntary donations received by Kriya Yog Ashram/Trust are from that foreign nationals who have donated the same out of the income on which taxes have been duly paid under*

*their statute and the same has been acknowledged by the Id. Assessing Authority in the Assessment Order dated 28.12.2019, accordingly, any addition on account of difference of receipt and payments for the year under consideration (which is with the appellant merely in the capacity as a custodian of money of the ashram) was is totally illegal, arbitrary, and uncalled for.*

*9. BECAUSE merely non-filing of balance sheet by the appellant, activities carried out by her in fiduciary capacity for and on behalf of Kriya Yog Ashram and Trust could not have been adversely viewed as also made the appellant liable for taxation of the difference of receipts over utilization during the year.*

*10. BECAUSE the CIT(A) has grievously erred in upholding the addition of Rs.52,500/- on adhoc basis being 5% of the overall cash withdrawal during the year, as the payments made by the appellant during the year has not been disputed by him while passing the assessment order u/s 143(3) read with section 147 of the Act.*

*11. BECAUSE after having verified all payments made by the appellant, there remains no scope of disallowance on adhoc basis by the authorities below, the addition of Rs.52,500/- sustained by the CIT(A) is wholly erroneous and unjustified when the activities of Kriya Yog Ashram are not in dispute at all.*

*12. BECAUSE the CIT(A) failed to appreciate the facts of the case and appellate orders in the case of the appellant herself for Assessment Years 2010-11 & 2011-12 wherein under similar circumstances addition of entire deposits in the*

*appellants bank account having been made by the Id. Assessing Officer by invoking section 69A of the Act has been deleted by observing as under:*

> *"The appellant has brought on record complete evidence to establish claims that the deposits in different bank accounts were connected with his Trust related transactions and he was simply a conduit. AO has failed to prove that appellant was engaged in any other personal activity during the year under consideration for which these deposits made by the devotees were used by appellant. Therefore, in my considered opinion, the said deposits are not unexplained as the source of these has been satisfactorily explained by the appellant. In view of these finding additions made u/s 69A of the Act is deleted."*

*As there being no change in facts and circumstance of the case, following the rule of consistency, addition sustained by the CIT(A) as made by the Id. Assessing Officer is wholly erroneous and unjustified.*

*13. BECAUSE the CIT(A) has erred in law as well as on facts in not applying the decision of the appellate authority for the A.Y. 2010-11 & 2011-12 by erroneously observing that principles of res-judicata shall not apply as in the present case, assessment of particular year is final, complete and binding in relation to the assessment year in which the decision is given i.e. final and conclusive between the parties only in relation to that year, and on facts the same is distinguishable, although there is no change in the facts and*

*circumstances of the case for the year under consideration vis-à-vis carlier assessment year.*

*14. BECAUSE the CIT(A) failed to appreciate the judgment of the Hon'ble Allahabad High Court in the case of CIT vs. Bithal Das Modi reported in [2005] 276 ITR 517 inspite of the fact that the case of the appellant is on a better footing as she has furnished meticulous details about the persons coming from abroad in his submissions which has been duly acknowledged and appreciated by authorities below, addition sustained on this ground is wholly arbitrary and unjustified and the same deserves to be deleted.*

*15. BECAUSE in any case judgment passed by the hon'ble jurisdictional high court in the case of Bithal Das Modi (supra) is having a binding precedence upon the authorities below, any deviation from the binding precedents set by the hon'ble jurisdictional high court is wholly illegal and arbitrary.*

*16. BECAUSE the order appealed against is contrary to the facts, law, principles of natural justice and against the binding precedence and decisions of hon'ble high courts and tribunal.*

*17. BECAUSE the addition so sustained by the CIT(A) in the impugned appellate order deserves to be set-aside and the return income disclosed by the appellant is liable to be sustained.*

7.0 In assessment year 2016-17 (ITA No.54/Alld/2023), the assessee in response to notice under section 148 of the Act, filed

her return of income declaring a total income of Rs.83,150/-. In this year also, the AO disallowed 5% of the payments made by the assessee in cash, i.e., 5% of Rs.10,50,000/-, which came to Rs.52,500/- and the same was added to the income of the assessee. In this year, the AO noticed that there were excess of receipts over payments to the tune of Rs.10,84,200/-, which was treated as income of the assessee and after reducing the amount of Rs.83,150/- (the amount returned by the assessee as income from other sources) from Rs.10,84,200/-, the difference amount of Rs.10,01,050/- (10,84,200 – 83,150) was added to the income of the assessee. The AO completed the assessment under section 143(3)/147 of the Act, assessing the total income of the assessee at Rs.11,36,700/-.

7.1 Aggrieved, the Assessee preferred an appeal before the NFAC, which dismissed the appeal of the assessee and confirmed the order of the AO.

7.2 Now, the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

> *1. BECAUSE the CIT(A) has erred in law as well as on facts in upholding the validity of the proceedings that has been invoked under section 147 of the Act against the appellant on the ground that substantial amount has been deposited by*

*the appellant in her bank account and no return has been filed by the appellant, as the appellant has very meager income which is below the maximum exemption limit and she was not require to file her return in regular course.*

*2. BECAUSE the CIT(A) has erred in law as well as on facts in sustaining the addition of Rs.10,01,050/- (after adjusting the returned income disclosed by the appellant) which was made by the ld. Assessing Officer in the assessment order dated 27.12.2019 by observing that;*

> *7.2.11 Considering the above comprehensive and all inclusive meaning of income from the perspective of taxation, it would not be incorrect to say that all receipts are considered as income for the purpose of taxation, unless specifically exempt under the income tax act. In the case of the appellant, admittedly she is not involved in any business activities or profit making enterprise. Nevertheless, she is in receipt of certain amounts, which can only be treated as her income as they are received in her bank account. Out of these receipts, various payments have been made, which by the same reasoning has been treated, after verification of the evidence given, as her expenditure by the Assessing Officer. At the end of this exercise, as the receipts exceeded the payments, the only logical conclusion that can be drawn, and has been drawn, by the AO is to treat the surplus as the taxable income of the appellant.*

*without controverting the fact that the entire receipts in the bank accounts from explained sources pertains to Kriya Yog Trust and Ashram meant for utilization for the said trust only*

*and no money has been utilized for the personal benefits of the appellant.*

*3. BECAUSE utilization of funds by the appellant out of receipts collected in her accounts in the fiduciary capacity on behalf of the Kriya Yog Trust and Ashram is a continuous activity as there is overall utilization in the subsequent years too. Merely entire receipts have not been expended during the year itself could not be ground for making any such addition in the income for taxation.*

*4. BECAUSE the CIT(A) has miserably failed to judge the receipts by appellant in her bank account in the fiduciary capacity and custodian of money on behalf of Kriya Yog Trust and Ashram, so surplus could not be taxable as income in her hand, by observing that "This is akin to saying, for example that "the money in my bank account is meant to be donated to charity and hence it is not my income" which, according to the principles of taxation of income is not an acceptable proposition"*

*5. BECAUSE the CIT(A) has completely erred in law as well as on facts in treating the excess of receipts over utilization as income of the appellant on the fallacious ground that "in the absence of any documentary evidence, or any legal title established by the institution/ashram to the amounts in the appellant's bank accounts. nor can it lead to exempting the recipient from the ambit of taxation. The intended destination or anticipated purpose of the receipts does not alter the taxability of the same in the recipient's hands."*

*6. BECAUSE both the authorities have not disputed the receipts and utilization during the year are for the purposes*

*of Kriya Yog Ashram and when there is and admitted fact that the appellant is involved in teaching and preaching the art of Kriyayog and not doing any business activities.*

*7. BECAUSE the excess of receipts over utilization is an ongoing process merely that some part of the current receipts are not fully utilized, the nature and character of receipts does not change, the CIT(A) has erred in law as well as on facts in treating the same as income u/s 2(24) r.w.s 56 of the Act liable for taxation during the year under consideration.*

*8. BECAUSE the CIT(A) failed to appreciate the facts and circumstances of the case and position of law, as most of the voluntary donations received by Kriya Yog Ashram/Trust are from that foreign nationals who have donated the same out of the income on which taxes have been duly paid under their statute and the same has been acknowledged by the ld. Assessing Authority in the Assessment Order dated 27.12.2019, accordingly, any addition on account of difference of receipt and payments for the year under consideration (which is with the appellant merely in the capacity as a custodian of money of the ashram) was is totally illegal, arbitrary, and uncalled for.*

*9. BECAUSE merely non-filing of balance sheet by the appellant, activities carried out by her in fiduciary capacity for and on behalf of Kriya Yog Ashram and Trust could not have been adversely viewed as also made the appellant liable for taxation of the difference of receipts over utilization during the year.*

*10. BECAUSE the CIT(A) has grievously erred in upholding the addition of Rs.52,500/- on adhoc basis being 5% of the*

*overall cash withdrawal during the year, as the payments made by the appellant during the year has not been disputed by him while passing the assessment order u/s 143(3) read with section 147 of the Act.*

*11. BECAUSE after having verified all payments made by the appellant, there remains no scope of disallowance on adhoc basis by the authorities below, the addition of Rs.52,500/- sustained by the CIT(A) is wholly erroneous and unjustified when the activities of Kriya Yog Ashram are not in dispute at all.*

*12. BECAUSE the CIT(A) failed to appreciate the facts of the case and appellate orders in the case of the appellant herself for Assessment Years 2010-11 & 2011-12 wherein under similar circumstances addition of entire deposits in the appellants bank account having been made by the ld. Assessing Officer by invoking section 69A of the Act has been deleted by observing as under;*

*"The appellant has brought on record complete evidence to establish claims that the deposits in different bank accounts were connected with his Trust related transactions and he was simply a conduit. AO has failed to prove that appellant was engaged in any other personal activity during the year under consideration for which these deposits made by the devotees were used by appellant. Therefore, in my considered opinion, the said deposits are not unexplained as the source of these has been satisfactorily explained by the appellant. In view of these finding additions made u/s 69A of the Act is deleted."*

*As there being no change in facts and circumstance of the case, following the rule of consistency, addition sustained by the CIT(A) as made by the ld. Assessing Officer is wholly erroneous and unjustified.*

*13. BECAUSE the CIT(A) has erred in law as well as on facts in not applying the decision of the appellate authority for the A.Y. 2010-11 & 2011-12 by erroneously observing that principles of res-judicata shall not apply as in the present case, assessment of particular year is final, complete and binding in relation to the assessment year in which the decision is given i.e. final and conclusive between the parties only in relation to that year, and on facts the same is distinguishable, although there is no change in the facts and circumstances of the case for the year under consideration vis-à-vis earlier assessment year.*

*14. BECAUSE the CIT(A) failed to appreciate the judgment of the Hon'ble Allahabad High Court in the case of CIT vs. Bithal Das Modi reported in [2005] 276 ITR 517 inspite of the fact that the case of the appellant is on a better footing as she has furnished meticulous details about the persons coming from abroad in his submissions which has been duly acknowledged and appreciated by authorities below, addition sustained on this ground is wholly arbitrary and unjustified and the same deserves to be deleted.*

*15. BECAUSE in any case judgment passed by the hon'ble jurisdictional high court in the case of Bithal Das Modi (supra) is having a binding precedence upon the authorities below, any deviation from the binding precedents set by the*

*hon'ble jurisdictional high court is wholly illegal and arbitrary.*

*16. BECAUSE the order appealed against is contrary to the facts, law, principles of natural justice and against the binding precedence and decisions of hon'ble high courts and tribunal.*

*17. BECAUSE the addition so sustained by the CIT(A) in the impugned appellate order deserves to be set-aside and the return income disclosed by the appellant is liable to be sustained.*

8.0 Now, we will deal with the issues involved in the case of Shri Yogi Satyam.

8.1 First, we will take up the appeal in ITA No.5/Alld/2023 for assessment year 2012-13. The brief facts are that the assessee was a spiritual teacher of Kriya Yog Ashram & Research Institute, Jhunsi, Allahabad, a non-profit organization established with the solemn objective of spreading Kriyayoga Science Worldwide. The Income Tax Department was in possession of information that the assessee had deposited the amount aggregating to Rs.5,01,33,312/- in four different bank accounts during the year under consideration. However, no return of income had been filed by the assessee for the year under consideration. Since the assessee had not filed his return of income for the year under consideration, the AO issued notice

under section 148 of the Income Tax Act, 1961 (hereinafter called "the Act') to the assessee and reopened the case of the assessee under section 147 of the Act. In compliance to the notice under section 148 of the Act, the assessee filed his return of income on 26.04.2019 declaring income from other sources at Rs.4,32,090/-. During the course of assessment proceedings, the AO noticed that the assessee had withdrawn cash of Rs.73,50,000/- on account of payments made in cash for different day-to-day expenses including vouchers, for more than Rs.20,000/-. Since the assessee could not furnish all the vouchers for expenses, the AO disallowed 5% of the payments made by the assessee in cash, i.e., 5% of Rs.73,50,000/-, which came to Rs.3,76,500/- and the same was also added to the income of the assessee. During the course of assessment proceedings, the AO also noticed that there were excess receipts over payments to the tune of Rs.19,10,019/-, which was treated as income of the assessee and after reducing the amount of Rs.4,32,090/- (the amount returned by the assessee as income from other sources) from Rs.19,10,019/-, the difference amount of Rs.14,74,585/- (19,10,019 – 4,32,090) was added to the income of the assessee. The AO completed the assessment under section 143(3)/147 of the Act, assessing the total income of the assessee at Rs.22,77,700/-.

8.2 Aggrieved, the Assessee preferred an appeal before the NFAC, which restricted disallowance on account of expenses to 2.5%, i.e., Rs.1,83,750/- as against 5%, i.e., Rs.3,76,500/- disallowed by the AO.

8.3 Being further aggrieved, now the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

> *1. BECAUSE the CIT(A) has grievously erred in law in not deciding the grounds raised by the appellant on the very validity of the proceedings that has been invoked under section 147 of the Act against the appellant by observing "Since the appeal is decided on merits, hence these grounds are not adjudicated."*
>
> *2. BECAUSE the CIT(A) has erred in law as well as on facts in sustaining the addition of Rs.14,74,585/-which was made by the ld. Assessing Officer in the assessment order dated 27.12.2019 by observing that:*
>
> > *7.5 I have carefully considered the assessment order and submissions of the appellant. During the appellate proceedings also, the appellant has not furnished any documentary evidence in support of his claim like balance sheet regarding his financial activities, the addition made by the Assessing Officer being the excess of receipts over payments of Rs.14,74,585/ is upheld and the grounds of appeal raised by the appellant are dismissed.*

*without controverting the fact that the entire receipts in the bank accounts from explained sources pertains to Kriya Yog Trust and Ashram meant for utilization for the said trust only and no money has been utilized for the personal benefits of the appellant.*

*3. BECAUSE utilization of funds by the appellant out of receipts collected in his accounts in the fiduciary capacity on behalf of the Kriya Yog Trust and Ashram is a continuous activity as there is overall utilization in the subsequent years too. Merely entire receipts have not been expended during the year itself could not be ground for making any such addition in the income for taxation.*

*4. BECAUSE the CIT(A) has miserably failed while deciding the issue regarding erroneous addition of Rs.14,74,585/- made by the ld. Assessing Officer, by observing that "the appellant has not furnished any documentary evidence in support of his claim like balance sheet regarding his financial activities" as the nothing has been claimed by the appellant as 'his' financial activity, since he himself being a monk solely engaged in free service of providing education of meditation through kriyayog, collection accumulated for the ashram has been utilized for the same having been accepted, hence addition made by the ld. Assessing Officer could not have been sustained by the CIT(A) in the impugned appellate order passed by him.*

*5. BECAUSE the CIT(A) has completely ignored and overlooked the facts of the case as also observations made by the Ld. Assessing Officer reading as under;*

*"After considering the reply of the assessee and documents submitted with the reply ie. confirmation from the loners have been submitted which is placed on record.*

*As all the payments, except cash withdrawals of Rs.73.50,000/-, have been made by the assessee through banking channels and duly verified from the bank accounts submitted by the assessec. Nothing contrary to the explanation given by the assessee has been seen.*

*(page 5 of the A.O.)*

*while passing the assessment order dated 27.12.2019, no addition could have been made by the Id. Assessing Officer as also confirmed by the CIT(A) in the impugned appellate order when there is and admitted fact that the appellant is involved in teaching and preaching the art of Kriyayog and not doing any business activities.*

*6. BECAUSE the CIT(A) after having categorically observed in the appellate order dated 25.11.2022 that:*

*"7.11 During the course of appellate proceedings, it is observed that the receipts are meant for Kriya Yog Ashram and the utilization of the said receipts are for the ashram and this being an on-going process and the appellant is merely a custodian of money of the ashram."*

*and appreciating the activities done/ conducted by the appellant, sustaining of the addition of Rs.14.75.585/- (being the amount left over for being utilized in the subsequent year as a regular process) made by the Ld. Assessing Officer is*

*wholly erroneous and unjustified when the activities of Kriya Yog Ashram are not in dispute at all.*

*7. BECAUSE the CIT(A) failed to appreciate the facts and circumstances of the case and position of law, as most of the voluntary donations received by Kriya Yog Ashram/ Trust are from that foreign nationals who have donated the same out of the income on which taxes have been duly paid under their statute and the same has been acknowledged by the Id. Assessing Authority in the Assessment Order dated 27.12.2019*

> *"..... i.e. confirmation from the loners have been submitted which is placed on record..... Nothing contrary to the explanation given by the assessec has been seen.".*
>
> *[page 5 of A.O.]*

*accordingly, any addition on account of difference of receipt and payments for the year under consideration (which is with the appellant merely in the capacity as a custodian of money of the ashram) was is totally illegal, arbitrary, and uncalled for.*

*8. BECAUSE the CIT(A) failed to appreciate the facts of the case and appellate orders in the case of the appellant himself for Assessment Years 2010-11 & 2011-12 wherein under similar circumstances addition of entire deposits in the appellants bank account having been made by the Id. Assessing Officer by invoking section 69A of the Act has been deleted by observing as under;*

> *"The appellant has brought on record complete evidence to establish claims that the deposits in different bank accounts were connected with his Trust related*

*transactions and he was simply a conduit. AO has failed to prove that appellant was engaged in any other personal activity during the year under consideration for which these deposits made by the devotees were used by appellant. Therefore, in my considered opinion, the said deposits are not unexplained as the source of these has been satisfactorily explained by the appellant. In view of these finding additions made u/s 69A of the Act is deleted."*

*As there being no change in facts and circumstance of the case, following the rule of consistency, addition sustained by the CIT(A) as made by the Id. Assessing Officer is wholly erroneous and unjustified.*

*9. BECAUSE the CIT(A) has completely erred in giving partial relief of Rs.1,83,750/- only (ie. restricting addition of 50% which has been calculated@ 5% of Rs.73,50,000/-), even after having accepting the fact that the amount withdrawn by the appellant from his bank account which he has received in a fiduciary capacity and was custodian of those receipts of the ashram activities has been utilized for the purposes of trust/ ashram only.*

*10. BECAUSE after having observed as;*

*"7.11 During the course of appellate proceedings, it is observed that the receipts are meant for Kriya Yog Ashram and the utilization of the said receipts are for the ashram and this being an on-going process and the appellant is merely a custodian of money of the ashram. With regard to cash withdrawal of Rs.73.50,000/-, the appellant stated that the receipts are not of the appellant*

*and also the payments made for different expenses are on behalf of the ashram. Hence, keeping in view the nature of expenses incurred and vouchers and also the appellant's main occupation is to provide yoga teachings of Kriyayoga Meditation free of charge for health and wellbeing to all, the disallowance is restricted to 2.5% of total cash withdrawals of Rs.73,50,000/- which comes to Rs.1,83.750/-. The grounds of appeal raised by the appellant are partly allowed."*

*by the CIT(A) in the impugned appellate order, he has completely erred in restricting the relief to 50% only and sustaining the addition of Rs.1,83.750/-without any valid reason.*

*11. BECAUSE the CIT(A) failed to appreciate the judgment of the Hon'ble Allahabad High Court in the case of CIT vs. Bithal Das Modi reported in [2005] 276 ITR 517 inspite of the fact that the case of the appellant is on a better footing as he has furnished meticulous details about the persons coming from abroad in his submissions which has been duly acknowledged and appreciated by authorities below, addition sustained on this ground is wholly arbitrary and unjustified and the same deserves to be deleted.*

*12. BECAUSE in any case judgment passed by the hon'ble jurisdictional high court in the case of Bithal Das Modi (supra) is having a binding precedence upon the authorities below, any deviation from the binding precedents set by the hon'ble jurisdictional high court is wholly illegal and arbitrary.*

*13. BECAUSE the order appealed against is contrary to the facts, law, principles of natural justice and against the binding precedence and decisions of hon'ble high courts and tribunal.*

*14. BECAUSE the addition so sustained by the CIT(A) in the impugned appellate order deserves to be set-aside and the return income disclosed by the appellant is liable to be sustained.*

9.0 In assessment year 2013-14 (ITA No.6/Alld/2023), in response to the notice under section 148 of the Act, the assessee filed his return of income on 26.04.2019 declaring income from other sources at Rs.4,21,160/-. In this year also, the AO disallowed 5% of the payments made by the assessee in cash, i.e., 5% of Rs.35,20,000/-, which came to Rs.1,76,000/- and the same was also added to the income of the assessee. The AO completed the assessment under section 143(3)/147 of the Act, assessing the total income of the assessee at Rs.5,97,960/-.

9.1 Aggrieved, the Assessee preferred an appeal before the NFAC, which restricted disallowance on account of expenses to 2.5%, i.e., Rs.88,000/- as against 5%, i.e., Rs.1,76,000/- disallowed by the AO.

9.2 Being further aggrieved, now the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

*1. BECAUSE the CIT(A) has grievously erred in law in not deciding the grounds raised by the appellant on the very validity of the proceedings that has been invoked under section 147 of the Act against the appellant by observing "Since the appeal is decided on merits, hence these grounds are not adjudicated."*

*2. BECAUSE the CIT(A) has completely erred in giving partial relief of Rs.88,000/- only (i.e. restricting addition of 50% which has been calculated @ 5% of Rs.35,20,000/-), even after having accepting the fact that the amount withdrawn by the appellant from his bank account which he has received in a fiduciary capacity and was custodian of those receipts of the ashram activities has been utilized for the purposes of trust/ ashram only.*

*3. BECAUSE after having observed as;*

> *"7.6 During the course of appellate proceedings, it is observed that the receipts are meant for Kriya Yog Ashram and the utilization of the said receipts are for the ashram and this being an on-going process and the appellant is merely a custodian of money of the ashram. With regard to cash withdrawal of Rs.35,20,000/-, the appellant stated that the receipts are not of the appellant and also the payments made for different expenses are on behalf of the ashram. Hence, keeping in view the nature of expenses incurred and vouchers and also the appellant's main occupation is to provide yoga teachings of Kriyayoga Meditation free of charge for health and wellbeing to all, the disallowance is restricted to 2.5% of total cash withdrawals of Rs.35,20,000/- which comes to*

*Rs.88,000/-. The grounds of appeal raised by the appellant are partly allowed."*

*by the CIT(A) in the impugned appellate order, he has completely erred in restricting the relief to 50% only and sustaining the addition of Rs.88,000/-without any valid reason.*

*4. BECAUSE the CIT(A) has completely ignored and overlooked the facts of the case as also observations made by the Ld. Assessing Officer reading as under;*

*"After considering the reply of the assessee and documents submitted with the reply i.e. confirmation from the loners have been submitted which is placed on record.*

*As all the payments, except cash withdrawals of Rs.35,20,000/-have been made by the assessee through banking channels and duly verified from the bank accounts submitted by the assessee. Nothing contrary to the explanation given by the assessee has been seen."*

*(pages 5 & 6 of the A.O.)*

*while passing the assessment order dated 27.12.2019, no addition could have been made by the ld. Assessing Officer as also confirmed by the CIT(A) in the impugned appellate order when there is and admitted fact that the appellant is involved in teaching and preaching the art of Kriyayog and not doing any business activities.*

*5. BECAUSE the CIT(A) after having categorically observed in the appellate order dated 25.11.2022 that:*

*"7.6 During the course of appellate proceedings, it is observed that the receipts are meant for Kriya Yog Ashram and the utilization of the said receipts are for the ashram and this being an on-going process and the appellant is merely a custodian of money of the ashram."*

*and appreciating the activities done/ conducted by the appellant, sustaining of the addition of Rs.88,000/- made by the Ld. Assessing Officer is wholly erroneous and unjustified when the activities of Kriya Yog Ashram are not in dispute at all.*

*6. BECAUSE the CIT(A) failed to appreciate the facts of the case and appellate orders in the case of the appellant himself for Assessment Years 2010-11 & 2011-12 wherein under similar circumstances addition of entire deposits in the appellants bank account having been made by the Id. Assessing Officer by invoking section 69A of the Act has been deleted by observing as under;*

*"The appellant has brought on record complete evidence to establish claims that the deposits in different bank accounts were connected with his Trust related transactions and he was simply a conduit. AO has failed to prove that appellant was engaged in any other personal activity during the year under consideration for which these deposits made by the devotees were used by appellant. Therefore, in my considered opinion, the said deposits are not unexplained as the source of these has been satisfactorily explained by the appellant. In view of these finding additions made u/s 69A of the Act is deleted."*

*As there being no change in facts and circumstance of the case, following the rule of consistency, addition sustained by the CIT(A) as made by the ld. Assessing Officer is wholly erroneous and unjustified.*

*7. BECAUSE the CIT(A) failed to appreciate the judgment of the Hon'ble Allahabad High Court in the case of CIT vs. Bithal Das Modi reported in [2005] 276 ITR 517 inspite of the fact that the case of the appellant is on a better footing as he has furnished meticulous details about the persons coming from abroad in his submissions which has been duly acknowledged and appreciated by authorities below, addition sustained on this ground is wholly arbitrary and unjustified and the same deserves to be deleted.*

*8. BECAUSE in any case judgment passed by the hon'ble jurisdictional high court in the case of Bithal Das Modi (supra) is having a binding precedence upon the authorities below, any deviation from the binding precedents set by the hon'ble jurisdictional high court is wholly illegal and arbitrary.*

*9. BECAUSE the order appealed against is contrary to the facts, law, principles of natural justice and against the binding precedence and decisions of hon'ble high courts and tribunal.*

*10. BECAUSE the addition so sustained by the CIT(A) in the impugned appellate order deserves to be set-aside and the return income disclosed by the appellant is liable to be sustained.*

10.0 In assessment year 2014-15 (ITA No.7/Alld/2023), the assessee in response to notice under section 148 of the Act, filed his return of income on 26.04.2019 declaring a total income of Rs.5,53,000/-. In this year also, the AO disallowed 5% of the payments made by the assessee in cash, i.e., 5% of Rs.18,00,000/- which came to Rs.90,000/- and the same was added to the income of the assessee. The AO completed the assessment under section 143(3)/147 of the Act, assessing the total income of the assessee at Rs.6,43,000/-.

10.1 Aggrieved, the Assessee preferred an appeal before the NFAC, which restricted disallowance on account of expenses to 2.5%, i.e., Rs.45,000/- as against 5%, i.e., Rs.90,000/- disallowed by the AO.

10.2 Being further aggrieved, now the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

> *1. BECAUSE the CIT(A) has grievously erred in law in not deciding the grounds raised by the appellant on the very validity of the proceedings that has been invoked under section 147 of the Act against the appellant by observing "Since the appeal is decided on merits, hence these grounds are not adjudicated."*
>
> *2. BECAUSE the CIT(A) has completely erred in giving partial relief of Rs.45,000/- only (i.e. restricting addition of 50%*

*which has been calculated @ 5% of Rs.18,00,000/-), even after having accepting the fact that the amount withdrawn by the appellant from his bank account which he has received in a fiduciary capacity and was custodian of those receipts of the ashram activities has been utilized for the purposes of trust/ ashram only.*

3. *BECAUSE after having observed as;*

> *"7.6 During the course of appellate proceedings, it is observed that the receipts are meant for Kriya Yog Ashram and the utilization of the said receipts are for the ashram and this being an on-going process and the appellant is merely a custodian of money of the ashram. With regard to cash withdrawal of Rs.18,00,000/-, the appellant stated that the receipts are not of the appellant and also the payments made for different expenses are on behalf of the ashram. Hence, keeping in view the nature of expenses incurred and vouchers and also the appellant's main occupation is to provide yoga teachings of Kriyayoga Meditation free of charge for health and wellbeing to all, the disallowance is restricted to 2.5% of total cash withdrawals of Rs.18,00,000/- which comes to Rs.45,000/-. The grounds of appeal raised by the appellant are partly allowed."*

*by the CIT(A) in the impugned appellate order, he has completely erred in restricting the relief to 50% only and sustaining the addition of Rs.45,000/-without any valid reason.*

*4. BECAUSE the CIT(A) has completely ignored and overlooked the facts of the case as also observations made by the Ld. Assessing Officer reading as under;*

> *"After considering the reply of the assessee and documents submitted with the reply i.e. confirmation from the loners have been submitted which is placed on record.*
>
> *As all the payments, except cash withdrawals of Rs.18,00,000/-, have been made by the assessee through banking channels and duly verified from the bank accounts submitted by the assessee. Nothing contrary to the explanation given by the assessee has been seen."*
>
> *(page 6 of the A.O.)*

*while passing the assessment order dated 27.12.2019, no addition could have been made by the ld. Assessing Officer as also confirmed by the CIT(A) in the impugned appellate order when there is and admitted fact that the appellant is involved in teaching and preaching the art of Kriyayog and not doing any business activities.*

*5. BECAUSE the CIT(A) after having categorically observed in the appellate order dated 25.11.2022 that:*

> *"7.6 During the course of appellate proceedings, it is observed that the receipts are meant for Kriya Yog Ashram and the utilization of the said receipts are for the ashram and this being an on-going process and the appellant is merely a custodian of money of the ashram."*

*and appreciating the activities done/ conducted by the appellant, sustaining of the addition of Rs.45.000/ made by the Ld. Assessing Officer is wholly erroneous and unjustified when the activities of Kriya Yog Ashram are not in dispute at all.*

*6. BECAUSE the CIT(A) failed to appreciate the facts of the case and appellate orders in the case of the appellant himself for Assessment Years 2010-11 & 2011-12 wherein under similar circumstances addition of entire deposits in the appellants bank account having been made by the Id. Assessing Officer by invoking section 69A of the Act has been deleted by observing as under;*

> *"The appellant has brought on record complete evidence to establish claims that the deposits in different bank accounts were connected with his Trust related transactions and he was simply a conduit. AO has failed to prove that appellant was engaged in any other personal activity during the year under consideration for which these deposits made by the devotees were used by appellant. Therefore, in my considered opinion, the said deposits are not unexplained as the source of these has been satisfactorily explained by the appellant. In view of these finding additions made u/s 69A of the Act is deleted."*

*As there being no change in facts and circumstance of the case, following the rule of consistency, addition sustained by the CIT(A) as made by the ld. Assessing Officer is wholly erroneous and unjustified.*

*7. BECAUSE the CIT(A) failed to appreciate the judgment of the Hon'ble Allahabad High Court in the case of CIT vs. Bithal Das Modi reported in [2005] 276 ITR 517 inspite of the fact that the case of the appellant is on a better footing as he has furnished meticulous details about the persons coming from abroad in his submissions which has been duly acknowledged and appreciated by authorities below, addition sustained on this ground is wholly arbitrary and unjustified and the same deserves to be deleted.*

*8. BECAUSE in any case judgment passed by the hon'ble jurisdictional high court in the case of Bithal Das Modi (supra) is having a binding precedence upon the authorities below, any deviation from the binding precedents set by the hon'ble jurisdictional high court is wholly illegal and arbitrary.*

*9. BECAUSE the order appealed against is contrary to the facts, law, principles of natural justice and against the binding precedence and decisions of hon'ble high courts and tribunal.*

*10. BECAUSE the addition so sustained by the CIT(A) in the impugned appellate order deserves to be set aside and the return income disclosed by the appellant is liable to be sustained.*

11.0 In assessment year 2015-16 (ITA No.8/Alld/2023), the assessee in response to notice under section 148 of the Act, filed his return of income on 26.04.2019 declaring a total income of Rs.10,03,960/-. In this year also, the AO disallowed 5% of the payments made by the assessee in cash, i.e., 5% of

Rs.6,40,000/- which came to Rs.32,000/- and the same was added to the income of the assessee. The AO completed the assessment under section 143(3)/147 of the Act, assessing the total income of the assessee at Rs.10,35,960/-.

11.1 Aggrieved, the Assessee preferred an appeal before the NFAC, which restricted disallowance on account of expenses to 2.5%, i.e., Rs.16,000/- as against 5%, i.e., Rs.32,000/- disallowed by the AO.

11.2 Being further aggrieved, now the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

> *1. BECAUSE the CIT(A) has grievously erred in law in not deciding the grounds raised by the appellant on the very validity of the proceedings that has been invoked under section 147 of the Act against the appellant by observing "Since the appeal is decided on merits, hence these grounds are not adjudicated."*
>
> *2. BECAUSE the CIT(A) has completely erred in giving partial relief of Rs.16,000/- only (i.e. restricting addition of 50% which has been calculated @ 5% of Rs.6,40,000/-), even after having accepting the fact that the amount withdrawn by the appellant from his bank account which he has received in a fiduciary capacity and was custodian of those receipts of the ashram activities has been utilized for the purposes of trust/ ashram only.*

*3. BECAUSE after having observed as;*

> *"7.6 During the course of appellate proceedings, it is observed that the receipts are meant for Kriya Yog Ashram and the utilization of the said receipts are for the ashram and this being an on-going process and the appellant is merely a custodian of money of the ashram. With regard to cash withdrawal of Rs.6,40,000/-, the appellant stated that the receipts are not of the appellant and also the payments made for different expenses are on behalf of the ashram. Hence, keeping in view the nature of expenses incurred and vouchers and also the appellant's main occupation is to provide yoga teachings of Kriyayoga Meditation free of charge for health and wellbeing to all, the disallowance is restricted to 2.5% of total cash withdrawals of Rs.6,40,000/- which comes to Rs.16,000/-. The grounds of appeal raised by the appellant are partly allowed."*

*by the CIT(A) in the impugned appellate order, he has completely erred in restricting the relief to 50% only and sustaining the addition of Rs.16,000/-without any valid reason.*

*4. BECAUSE the CIT(A) has completely ignored and overlooked the facts of the case as also observations made by the Ld. Assessing Officer reading as under;*

> *"After considering the reply of the assessee and documents submitted with the reply i.e. confirmation from the loners have been submitted which is placed on record.*

*As all the payments, except cash withdrawals of Rs.6,40,000/-, have been made by the assessee through banking channels and duly verified from the bank accounts submitted by the assessee. Nothing contrary to the explanation given by the assessee has been seen."*

*(page 6 of the A.O.)*

*while passing the assessment order dated 27.12.2019, no addition could have been made by the Id. Assessing Officer as also confirmed by the CIT(A) in the impugned appellate order when there is and admitted fact that the appellant is involved in teaching and preaching the art of Kriyayog and not doing any business activities.*

*5. BECAUSE the CIT(A) after having categorically observed in the appellate order dated 25.11.2022 that:*

*"7.6 During the course of appellate proceedings, it is observed that the receipts are meant for Kriya Yog Ashram and the utilization of the said receipts are for the ashram and this being an on-going process and the appellant is merely a custodian of money of the ashram."*

*and appreciating the activities done/ conducted by the appellant, sustaining of the addition of Rs.16,000/- made by the Ld. Assessing Officer is wholly erroneous and unjustified when the activities of Kriya Yog Ashram are not in dispute at all.*

*6. BECAUSE the CIT(A) failed to appreciate the facts of the case and appellate orders in the case of the appellant himself for Assessment Years 2010-11 & 2011-12 wherein*

*under similar circumstances addition of entire deposits in the appellants bank account having been made by the ld. Assessing Officer by invoking section 69A of the Act has been deleted by observing as under;*

> *"The appellant has brought on record complete evidence to establish claims that the deposits in different bank accounts were connected with his Trust related transactions and he was simply a conduit. AO has failed to prove that appellant was engaged in any other personal activity during the year under consideration for which these deposits made by the devotees were used by appellant. Therefore, in my considered opinion, the said deposits are not unexplained as the source of these has been satisfactorily explained by the appellant. In view of these finding additions made u/s 69A of the Act is deleted."*

*As there being no change in facts and circumstance of the case, following the rule of consistency, addition sustained by the CIT(A) as made by the ld. Assessing Officer is wholly erroneous and unjustified.*

*7. BECAUSE the CIT(A) failed to appreciate the judgment of the Hon'ble Allahabad High Court in the case of CIT vs. Bithal Das Modi reported in [2005] 276 ITR 517 inspite of the fact that the case of the appellant is on a better footing as he has furnished meticulous details about the persons coming from abroad in his submissions which has been duly acknowledged and appreciated by authorities below, addition sustained on this ground is wholly arbitrary and unjustified and the same deserves to be deleted.*

*8. BECAUSE in any case judgment passed by the hon'ble jurisdictional high court in the case of Bithal Das Modi (supra) is having a binding precedence upon the authorities below, any deviation from the binding precedents set by the hon'ble jurisdictional high court is wholly illegal and arbitrary.*

*9. BECAUSE the order appealed against is contrary to the facts, law, principles of natural justice and against the binding precedence and decisions of hon'ble high courts and tribunal.*

*10. BECAUSE the addition so sustained by the CIT(A) in the impugned appellate order deserves to be set aside and the return income disclosed by the appellant is liable to be sustained.*

12.0 In assessment year 2016-17 (ITA No.9/Alld/2023), the assessee in response to notice under section 148 of the Act, filed his return of income on 26.04.2019 declaring a total income of Rs.3,00,210/-. In this year also, the AO disallowed 15% of the payments made by the assessee in cash, i.e., 15% of Rs.5,00,000/- which came to Rs.75,000/- and the same was added to the income of the assessee. The AO completed the assessment under section 143(3)/147 of the Act, assessing the total income of the assessee at Rs.3,75,210/-.

12.1 Aggrieved, the Assessee preferred an appeal before the NFAC, which restricted disallowance on account of expenses to

7.5%, i.e., Rs.37,500/- as against 15%, i.e., Rs.75,000/- disallowed by the AO.

12.2 Being further aggrieved, now the assessee has approached this Tribunal challenging the order of the NFAC, by raising the following grounds of appeal:

> *1. BECAUSE the CIT(A) has grievously erred in law in not deciding the grounds raised by the appellant on the very validity of the proceedings that has been invoked under section 147 of the Act against the appellant by observing "Since the appeal is decided on merits, hence these grounds are not adjudicated."*
>
> *2. BECAUSE the CIT(A) has completely erred in giving partial relief of Rs.37.500/- only (i.e. restricting addition of 50% which has been calculated @ 7.5% of Rs.5,00,000/-), even after having accepting the fact that the amount withdrawn by the appellant from his bank account which he has received in a fiduciary capacity and was custodian of those receipts of the ashram activities has been utilized for the purposes of trust/ ashram only.*
>
> *3. BECAUSE after having observed as;*
>
> > *"7.6 During the course of appellate proceedings, it is observed that the receipts are meant for Kriya Yog Ashram and the utilization of the said receipts are for the ashram and this being an on-going process and the appellant is merely a custodian of money of the ashram. With regard to cash withdrawal of Rs.5,00,000/-, the appellant stated that the receipts are not of the appellant*

*and also the payments made for different expenses are on behalf of the ashram. Hence, keeping in view the nature of expenses incurred and vouchers and also the appellant's main occupation is to provide yoga teachings of Kriyayoga Meditation free of charge for health and wellbeing to all, the disallowance is restricted to 7.5% of total cash withdrawals of Rs.5,00,000/- which comes to Rs.37,500/-. The grounds of appeal raised by the appellant are partly allowed."*

*by the CIT(A) in the impugned appellate order, he has completely erred in restricting the relief to 50% only and sustaining the addition of Rs.37,500/-without any valid reason.*

*4. BECAUSE the CIT(A) has completely ignored and overlooked the facts of the case as also observations made by the Ld. Assessing Officer reading as under;*

*"After considering the reply of the assessee and documents submitted with the reply i.e. confirmation from the loners have been submitted which is placed on record.*

*As all the payments, except cash withdrawals of Rs.5,00,000/-, have been made by the assessee through banking channels and duly verified from the bank accounts submitted by the assessee. Nothing contrary to the explanation given by the assessee has been seen.*

*(page 6 of the A.O.)*

*while passing the assessment order dated 27.12.2019, no addition could have been made by the ld. Assessing Officer as also confirmed by the CIT(A) in the impugned appellate order when there is and admitted fact that the appellant is involved in teaching and preaching the art of Kriyayog and not doing any business activities.*

*5. BECAUSE the CIT(A) after having categorically observed in the appellate order dated 29.11.2022 that:*

> *"7.6 During the course of appellate proceedings, it is observed that the receipts are meant for Kriya Yog Ashram and the utilization of the said receipts are for the ashram and this being an on-going process and the appellant is merely a custodian of money of the ashram."*

*and appreciating the activities done/ conducted by the appellant, sustaining of the addition of Rs.37,500/- made by the Ld. Assessing Officer is wholly erroneous and unjustified when the activities of Kriya Yog Ashram are not in dispute at all.*

*6. BECAUSE the CIT(A) failed to appreciate the facts of the case and appellate orders in the case of the appellant himself for Assessment Years 2010-11 & 2011-12 wherein under similar circumstances addition of entire deposits in the appellants bank account having been made by the Id. Assessing Officer by invoking section 69A of the Act has been deleted by observing as under;*

> *"The appellant has brought on record complete evidence to establish claims that the deposits in different bank accounts were connected with his Trust related transactions and he was simply a conduit. AO has failed*

*to prove that appellant was engaged in any other personal activity during the year under consideration for which these deposits made by the devotees were used by appellant. Therefore, in my considered opinion, the said deposits are not unexplained as the source of these has been satisfactorily explained by the appellant. In view of these finding additions made u/s 69A of the Act is deleted."*

*As there being no change in facts and circumstance of the case, following the rule of consistency, addition sustained by the CIT(A) as made by the ld. Assessing Officer is wholly erroneous and unjustified.*

*7. BECAUSE the CIT(A) failed to appreciate the judgment of the Hon'ble Allahabad High Court in the case of CIT vs. Bithal Das Modi reported in [2005] 276 ITR 517 inspite of the fact that the case of the appellant is on a better footing as he has furnished meticulous details about the persons coming from abroad in his submissions which has been duly acknowledged and appreciated by authorities below, addition sustained on this ground is wholly arbitrary and unjustified and the same deserves to be deleted.*

*8. BECAUSE in any case judgment passed by the hon'ble jurisdictional high court in the case of Bithal Das Modi (supra) is having a binding precedence upon the authorities below, any deviation from the binding precedents set by the hon'ble jurisdictional high court is wholly illegal and arbitrary.*

*9. BECAUSE the order appealed against is contrary to the facts, law, principles of natural justice and against the*

*binding precedence and decisions of hon'ble high courts and tribunal.*

*10. BECAUSE the addition so sustained by the CIT(A) in the impugned appellate order deserves to be set aside and the return income disclosed by the appellant is liable to be sustained.*

13.0 The Ld. Authorized Representative for the assessee (Ld. A.R.) submitted that the facts, assessment orders passed and the adjudication by the Ld. First Appellate Authority are almost identical in all the ten appeals before the Tribunal and, therefore, even his arguments/submissions would be the same for all the appeals. It was submitted that he was making his submissions in the case of Yogi Satyam in ITA No.5/ALLD/2023 as the lead case and that these arguments would apply mutatis mutandis in all other appeals also.

13.1 The Ld. A.R. submitted that the assessment orders of all these 5 years are not legally tenable, as the reasons for re-opening of assessments for escapement of income are having different from the reasons given in the assessment orders for disallowance or addition in computation of income. He submitted that as can be seen from the assessment order for assessment year 2012-13 that the reason has been given that assessee had deposited Rs.5,01,33,312/- but has not filed his

return of income and, therefore, the total deposits made in bank accounts had escaped assessment. The Ld. A.R. further submitted that the AO has referred to only four bank accounts, whereas the assessee had furnished details of six bank accounts, which itself proves the honesty and sincerity of the assessee.

13.2 The Ld. A.R. also submitted that the details of deposits and nature of receipts have been duly explained before the AO, vide letter dated 19.12.2019 and that the nature of payments and transfer of money for running the Kriyayoga Ashram were also explained with necessary evidences. It was submitted that the AO had accepted the explanation regarding source of receipts / deposits in the bank accounts. The Ld. A.R. also submitted that whosoever had given loans or reimbursements of expenditures for staying in the Ashram, had confirmed with necessary evidence and confirmations and the AO had accepted the same, as is evident from his order, as under:

> *"As all the payments, except cash withdrawals of Rs.73,50,000/- have been made by Appellant through banking channels and duly verified form (from) from the bank accounts submitted by the appellant. Nothing contrary to the explanation given by the appellant has been seen."*

13.3 The Ld. A.R. submitted that it is amply clear from the above finding of the AO that he, after due verification and

scrutiny, had accepted the source of deposits and genuineness of the documents submitted in support of explanation and that when the supporting evidences and source of deposits/receipts have been accepted, there was no reason to disallow any of the expenditures without contrary evidence in possession or without substantiating the disallowance of expenditures. The Ld. A.R. submitted that the AO has failed to appreciate, even after accepting the facts of charitable activities and Kriyayoga, that the assessee was not a businessman or a commercial person but was a saint/monk, propagating Kriyayoga and doing lots of charitable work for the betterment of humanity and, therefore, there was no reason to make the addition on the ground that receipt was more than payments. It was submitted by the Ld. A.R. that obviously, receipts will be more or almost same to the expenditures and, therefore, no addition or disallowance could have been made by the AO baselessly. The Ld. A.R. submitted that the assessment orders are illegal, untenable and are full of contradictions of arguments /reasoning.

13.4 With regard to the disallowance @ 5% of cash withdrawals, the Ld. A.R. submitted that the reason given by the AO was self-defeating and contrary to the law, as the AO had made the addition on estimate basis @ 5% of the payments made in cash purely on surmises, that too, to cover up for any possible

leakage. The Ld. A.R. submitted that as is evident from 2nd last paragraph of the assessment order dated 27.12.2019, that no specific vouchers or evidence have been pointed by the AO, hence this order can never be approved. It was submitted that in the last paragraph of the assessment order for assessment year 2012-2013, the AO made addition of Rs.14,74,585/- on the ground that the receipts are more than payments. The Ld. A.R. submitted that when the receipts and deposits had been explained and the AO had accepted the same, as mentioned above, no such addition should have been made for want of any vouchers or evidence, because of the reason that the assessee was neither a businessman nor was he claiming any routine expenditure for running the Ashram, where hundreds of devotees come and the Ashram is an absolutely charitable institute, trust and research center based on science of physiology, mind conscience, brain and biological systems, and incurs day-to-day miscellaneous expenditures like, milk, juice, vegetables, herbal tea, herbal coffee, breakfast, fresh fruits, dry fruits, expenses on sweeping, sanitation, laundry, etc. and many more allied expenses like transportation, logistic systems, movements, erection of tents, Magh and Kumbh Mela Camps, mic and speaker system, etc. are incurred. It was submitted that all these activities are done every day and, hence, such expenditures

are bound to be incurred and for most of such expenses, no bills or vouchers are given by the street sellers, vegetable and fruits sellers and other vendors. He submitted that if any bill or voucher is given, they were not preserved. It was submitted that vouchers and bills relating to assessment year 2012-13 were being demanded in assessment year 2019-20, which was impossible at this juncture.

13.5 The Ld. A.R. further submitted that the Ld. CIT(A) in his order dated 25.11.2022 had accepted the veracity of submissions and grounds of appeal and that he had also accepted, vide paragraph 7.9 of his order, that Kriyayoga Ashram is non-profit organization. It was submitted that the Ld. CIT(A) has accepted the explanations furnished by the assessee that no money has been utilized for individual personal needs of the assessee. The Ld. A.R. further submitted that vide para 7.10 of his order, the ld. CIT(A) had accepted the fact that the money belonged to the Ashram and not to the assessee and that all the receipts and expenditures were related to the Ashram only. He submitted that after accepting the evidences, explanations, submissions and grounds of appeal, the Ld. CIT(A) had reduced the rate of disallowance of withdrawals from 5% made by AO to 2.5%. The Ld. A.R. submitted that obviously, the Ld. CIT(A) has confirmed the disallowance without any cogent evidence or reference to the

evidence and here was no basis for sustaining the disallowance @2.5% as against @ 5% made by the AO.

13.6 The Ld. A.R. further submitted that as is evident from the assessment's orders of all the appeals under consideration, none of the additions have been made for the reason of income having escaped assessment. It was submitted that when the details of receipts and expenditures for every year have been given to the AO and he was fully satisfied with the genuineness of receipts and payments, there was no legal reason to disallow the expenditures on the ground that the income was more than the payments.

13.7 The Ld. A.R. further submitted that as could be seen from all the assessment orders, especially the concluding two paragraphs that AO had acted very casually, whimsically, fancifully and presumptively and the Ld. CIT(A) has also acted on surmises by restricting the disallowance of expenditure to 2.5% instead of deleting the baseless disallowance having no legs or foundation.

13.8 The Ld. A.R. submitted that that the assessee had co-operated with the AO in the assessment proceedings by filing all the information and explanations and the AO had never issued any proper show cause notice by referring to any different

evidence or material in his possession, and rather he has admitted that he has no other information other than bank statements and, therefore, there was no propriety on the part of AO to make disallowance of expenditure without pointing out any specific instances.

13.9 The Ld. A.R. further submitted that alternatively, the assessee may be allowed the benefit of carry forward of excess of expenditure over receipts to be adjusted against future excess receipts.

13.10 He reiterated that both the authorities below have accepted the source of receipts and deposits, activities of Kriyayoga, requirement of day-to-day expenses, fact of non-profit institute, sacrifices of monks residing in the campus for the betterment of the society and the Nation and both have also accepted the veracity of the evidences furnished to them, therefore, there was no propriety on their part to make disallowance/additions on surmises or presumptively.

13.11 The Ld. A.R. reiterated that the receipts by the assessees in their bank accounts were necessarily in the fiduciary capacity of custodian of money on behalf of Kriyayog Trust and Ashram and, therefore, the surplus could not taxable as income in their hands because excess of receipts over utilization is an ongoing

process and merely because some part of current receipts could not be fully utilized, the nature and character of receipts would not change. It was submitted that this was appreciated by the Ld. First Appellate Authority in the case of both the assessees for assessment years 2010-11 and 2011-12, wherein the excess of receipts over expenditure was not held as taxable. The Ld. A.R. submitted that the principles of res judicata should be followed in the captioned assessment years also.

13.12 The Ld. A.R. submitted that the disallowance/additions made by AO and part of them confirmed by Ld. CIT(A) may be deleted, as there was no valid reason or evidence or convincing ground for making the addition/disallowance.

14.0 In response, the Ld. Sr. D.R. submitted that its borne out from records that no returns were filed by both the assessees originally in all the ten appeals before the Tribunal and that it was only in response to notices under section 148 of the Act for different assessment years that the assessees filed their returns of income and, thus, evidently there was escapement of income. It was further submitted that the AO has already given benefit of the aggregate deposits appearing in the bank accounts and he has only brought to tax the excess of receipts over the expenditure, which was very much legally correct. It was

submitted that the proceedings under section 147/148 of the Act were rightly invoked and even the ad-hoc disallowances were justified inasmuch as the disallowances were made only with respect to those cash withdrawals and/or expenses where the vouchers were not produced. It was further submitted that even after that the Ld. First Appellate Authority had already given adequate relief by reducing the disallowances to 50% of that made by the AO. It was further submitted that as far as the alternate plea of the assessee regarding allowing benefit of loss to be carried forward was concerned, it was submitted that such loss has to be essential claimed for being carried forward in the return of income and when such claim has not been made by the assessee, the same cannot be allowed. It was also argued by the Ld. Sr. D.R. that the assessee has not brought out any specific resolution passed by the Kriyayoga Yog Trust which authorizes the assessees to receive and spent money on behalf of the trust after receiving the same in their personal bank accounts. He also supported the order of the Ld. First Appellate Authority on the issue that even on the plea of consistency, errors cannot be allowed to perpetuate and the Ld. First Appellate Authority was legally correct in deviating from the findings in assessment year 2011-12.

15.0 We have heard the rival submissions and have also perused the material on record. We have also perused the first appellate order for assessment years 2010-11 and 2011-12 for both the assessees. It is undisputed that the facts in the case of both the assessees for all the years under consideration under appeal are almost identical with only one major difference.

15.1 It is seen that in assessment year 2012-13 pertains to ITA No.5/Alld/2023 in the case of Shri Yogi Satyam, the AO has made an addition of Rs.14,78,106/- being excess of receipts of over payment. A perusal of the assessment order for assessment year 2012-13 shows that the AO has taken gross receipts during the year at Rs.5,65,41,346/- and the gross payments at Rs.5,46,31,327/-. However, it is seen that the amount of gross receipts includes the amount of Rs.66,75,659/- being interest free loans received during the year. This amount of interest free loans is included while calculating excess of receipts over the payment amounting to Rs.19,10,019/- and after giving the benefit of the amount shown in the return of income, an amount of Rs.14,78,106/- has been added to the income of the assessee (although the correct figure should have been Rs.14,77,929/-). It is seen that while making this addition, the AO has not commented on the nature of this loan and has not brought anything on record which would suggest that these interest free

loans of Rs.66,75,659/- were not genuine and would, therefore, fall under 'unexplained money' found credited in the books of account under section 68 of the Act. The principles of accountancy are very clear inasmuch as loans cannot be brought to tax and even the Income Tax Act, 1961 specifically lays down that loans cannot form part of the total income unless it is demonstrated and proved that such loans are bogus and are in fact the unexplained money belonging to the assessee. In the absence of any finding in this regard, we are unable to concur with the findings of the lower authorities that excess of receipts over payments to the tune of Rs.14,78,106/- is to be added to the income of the assessee for the very simple reason that interest free loans cannot be treated as income earned during the year. Therefore, in assessment year 2012-13 in the case of Yogi Satyam, the amount of Rs.14,78,106/- being excess of receipts over payment is directed to be deleted.

15.2 As far as the larger question of not taxing excess of receipts over expenditure is concerned, it is seen that the Department in all the years under consideration has in principle accepted that the assessees are engaged in providing charitable activities through Kriyayog Trust and Ashram and even the expenditures incurred by both the individuals have not been doubted by the Department and the only disallowances made

have been on estimate ranging from 10 to 15%. Thus, the Department has accepted that the assessees have been carrying on the activities for the benefit of mankind at large. The Department has also accepted the contention of both the assessees that since many donations are from outside India, they have to sometimes necessarily receive donations through their personal bank accounts which are later transferred to the books of Kriyayog Trust and Ashram. However, all the same, the fact remains that even after compiling the receipts and payments from the documents so submitted by both the assessees, there remained surplus in assessment year 2012-13 in the cases of both the assessees and in assessment years 2014-15, 2015-16 N 2016-17 also in the case of Ms. Sanjana. It is also evident that such excess of receipts were not offered to tax by both the assessees. Although we appreciate that both the assessees are holy persons and they might not be so well-versed with the principles of accounting and Income Tax, the law has to be followed and complied in letter and spirit. The excess of receipts over expenditure is essentially surplus earned during the assessment year 2012-13 and, therefore, if it is otherwise not exempt in terms of sections 11 and 12 of the Act or other sections pertaining to exempt income, the same has to be brought to tax irrespective of the status of the person. The taxing

statute has to be construed strictly even if its interpretation results in hardship or inconvenience and the Hon'ble Apex Court has held in the case of CIT vs. Calcutta Knitwears reported in [2014] 362 ITR 673 (SC) that common sense approach, equity, logic, ethics and morality have no role to play. Similarly the Hon'ble Apex Court in the case of CIT vs. Vadilal Lallubhai, etc. reported in [1972] 86 ITR 2(SC) held that it is not permissible to construe any provision of a statute much lesser taxing provision by reading into much more words than necessary. Similarly, in the case of H.H. Lakshmi Bhai vs. CWT reported in [1994] 206 ITR 688 (SC), the Hon'ble Apex Court held that it is settled law that taxation statute in particular has to be strictly construed and there is no equity in the taxing provision.

15.3 Thus, there is no tax exempt income under the Income Tax Act, unless there is a specific express provision in the Act itself. All the exemptions, e.g., under section 10, 11 and 54, etc. of the Act are explicitly listed and require specific conditions to be met. As no tax can be levied without authority of law, similarly, no income can be excluded from taxation unless expressly exempted by a specific provision provided within the Act and it follows from this that exemption provisions are to be strictly interpreted and complied with and a person claiming exemption must clearly demonstrate that his or her case falls within the

exact letter of law and fulfills all the specified conditions. It also follows from this that there can be no exemption by implication or equity and if an income does not fall within the specific wordings of exemption provision, it becomes taxable.

15.4 For assessment year 2012-13 in the case of Ms. Sanjana in ITA No.50Alld/2023, the AO has made an addition of Rs.45,63,730/- being excess of receipts over payments. A perusal of the receipts as stated in the assessment order shows that the gross receipts during this year were to the tune of Rs.3,43,42,108/- and gross payments during this year were to the tune of Rs.2,96,28,728/-. Here again, the gross receipts include an amount of Rs.2,37,250/- which have been included in the excess of receipts over expenditure while making the addition. As has been observed by us in the preceding paragraph No.15.1, the interest free loans cannot be included in the taxable income unless there is a specific finding recorded by the tax authorities that such loans represent unexplained money of the assessee. In this case also, our observations would apply and, therefore, the excess of receipts over payments to the tune of Rs.45,63,730/- (as computed by the AO) will have to be necessarily reduced by an amount of Rs.2,37,250/- while making the disallowance. Thus, the addition in this regard is to be modified and the AO is directed to do the needful.

15.5 In assessment year 2014-15 in the case of Sanjana in ITA No.52/Alld/2023, Rs.4,27,155/- is the excess of receipts over expenditure and in view of our observations in the above paragraph, the addition on this account is upheld. Therefore, for assessment year 2012-13, the excess of receipts over expenditure to the tune of Rs.43,26,480/-, i.e., after reducing the amount of interest free loans in the case of Ms. Sanjana is to be taxed and accordingly the same is upheld.

15.6 Similarly, in assessment year 2015-16 in the case of Ms. Sanjana pertaining to ITA No.53/Alld/2023, the excess of receipts over expenditure to the tune of Rs.3,77,433/- is upheld.

15.7 On identical lines, in assessment year 2016-17 in the case of Ms. Sanjana pertaining to ITA No.54/Alld/2023, the excess of receipts over expenditure to the tune of Rs.10,01,050/- is upheld.

15.8 Apart from this, the only other dispute remaining before us is the estimated disallowances by the AO to the tune of 10 to 15% in the cases of both the assessees in all the years under consideration. It is seen that these additions have been made on estimate basis without pointing out any specific defect in the details submitted by the assessees and the Ld. First Appellate Authority has also reduced the quantum of disallowances to 50%

of the original disallowances without assigning any reason as to why the disallowance by the AO was to be upheld or why the same was being reduced. Neither of the tax authorities below have pointed out that any part of the expenditure was found to be bogus or fictitious. There is no mention of any rationale in arriving at the percentage of disallowance in the instant appeals. Consequently, the ad-hoc disallowance in all the years under appeal deserve to be deleted in the entirety and the AO is directed accordingly to delete the ad-hoc disallowances in all the years under appeal in the case of both the assessees.

15.9 As far as the assessees' challenge to issuance of notice under section 148 of the Act in all the ten appeals is concerned, it remains undisputed that the assessees had not filed their original returns of income initially and it was only in response to notices issued under section 148 of the Act that the assessees filed their returns of income showing taxable income. Thus, the subsequent conduct of the assessees post-issuance of notices for reopening itself proved that income had escaped assessment in all the years under appeal. Thus, it is obvious that both the assessees had taxable incomes in all the captioned assessment years but they chose not to file their returns of income. In such a situation, it is our considered view that on the given factual matrix, and as elaborately pointed out in the assessment order,

the reopening in all the years under appeal in the cases of both the assessees is legally valid and the same is upheld. The grounds relating to validity of reassessment proceedings are accordingly dismissed.

15.10 As far as the arguments of the Ld. A.R. with respect to the action of the ld. CIT(A) in not following the orders of the Ld. First Appellate Authority in assessment years 2011-12 and 2012-13 are concerned, we have carefully perused these orders and it is seen that even in the captioned assessment years under appeal, the Department has given credence to the submissions of both the assessees that the assessees were holy persons engaged in carrying on charitable/spiritual activities through their Trust and Ashram and even the expenditure was disallowed only on an ad-hoc basis and what was brought to tax by the AO and upheld by the Ld. First Appellate Authority was only the excess of receipts over expenditure, which could not have been treated as exempt in absence of any express provision of the Income Tax Act, 1961. Therefore, the approach of the tax authorities in the captioned assessment years is held to be the correct legal approach. It is settled law that principle of res-judicata cannot be invoked where an order or judgment is passed on incorrect interpretation of law or where the set of facts are different.

Therefore, the arguments of the Ld. A.R. on this issue are also dismissed.

15.11 The Ld. A.R. has also made an alternate plea that if all other arguments of the assessee are not accepted, in the alternate, the Department may be directed to allow benefit of carry forward and adjustment of excess of expenditure over income in subsequent assessment years, but as has been rightly pointed out by the Ld. Sr. D.R., this right of carry forward accrues only when a claim for the same is made in the return of income. In the captioned assessment years, no such claim has been made and, therefore, in view of the provisions of the Act and the settled legal position, this plea of the Ld. A.R. is also rejected.

16.0 In the final result, all the appeals are partly allowed.

Order pronounced under 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 on 31/10/2025.

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| Sd/- | Sd/- |
| [NIKHIL CHOUDHARY] | [SUDHANSHU SRIVASTAVA] |
| ACCOUNTANT MEMBER | JUDICIAL MEMBER |

DATED:31/10/2025

JJ:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR