

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'A' BENCH, KOLKATA**

Before

SHRI GEORGE MATHAN, JUDICIAL MEMBER

&

SHRI RAKESH MISHRA, ACCOUNTANT MEMBER

ITA No.: 1492/KOL/2017

Assessment Year: 2008-09

Sahara Welfare Foundation	Vs.	DCIT (Exemptions), Circle-1, Kolkata
(Appellant)		(Respondent)
PAN: AAECs4143H		

Appearances:

Assessee represented by : P.K. Bansal, AR.

Department represented by : Raja Sengupta, (CIT) DR.

Date of concluding the hearing : 30-October-2025

Date of pronouncing the order : 21-November-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)- 25, Kolkata [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250(6)/254 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2008-09 dated 25.04.2017. During the course of the appeal, though the assessee sought adjournment, however, the Bench rejected the same as the same was without any valid reason and the appeal was heard.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. The order passed by the CIT (A) is void ab initio in as much as no opportunity or show cause notice was issued to the appellant before



enhancing of the assessment at Rs.12,77,00,000/- as against the assessed income of Rs.3,46,87,620/- as provided u/s 251(1) of the Income Tax Act, 1961.

2. That without prejudice the CIT (A) has erred in law and on facts and circumstances of the case in holding that then payment of 12,77,00,000/- to BCCI is in violation of u/c 13(1)(c) and section 13(3) of the IT Act, 1961 and therefore, the appellant is not entitled to exemption u/s 11 in respect of such payment.

3. That on facts and circumstances of the case as well as in law, the Id. CIT (A) is not justified in observing source of payments being from the reserves of earlier years that had been allowed to be accumulated u/s 11(2), thus violating section 11(3) of the Income Tax Act, 1961.

4. That the order passed by the CIT (A) is against the merits, circumstances, and legal aspects of the case and, therefore, the same deserves to be deleted.

5. That the appellant craves leave to add, alter, amend, or withdraw any or all of the grounds of appeal on or before the date of hearing.”

3. Brief facts of the case are that the assessee is a company registered u/s 25 of the Company's Act, 1956 and also registered u/s 12A of the Act. The assessee company filed its return of income declaring 'NIL' income. Statutory notices u/s 143(2) and 142(1) of the Act were issued and duly served upon the assessee after selection of the case under compulsory scrutiny. In response to the notices issued, the assessee, through its Authorized Representative, explained the return of income and produced the requisite details. The assessee company is stated to have carried on activities providing welfare support to Kargil Martyr's family members besides other general charitable activities. On examination of the accounts, the Assessing Officer (hereinafter referred to as the Ld. 'AO') found that the assessee company spent an amount of ₹16,32,05,283/- out of which ₹12.77 Crore was paid for promotion of sports & games. The Ld. AO found that instead of paying this amount to BCCI directly, it was paid through a group company of Sahara Group



i.e. M/s. SICCL. The Ld. AO noted, on analysis of the purpose and nature of transaction of the assessee company, that though the object of promotion of sports of the assessee was charitable in nature, the manner and purpose for which the contribution of the assessee was utilized by the group companies, had ingredients of commerciality and it was proved that the assessee had provided commercial benefit directly or indirectly to the interested persons i.e. its group companies in the garb of charity towards promotion of sports and games. The Ld. AO concluded that this act of giving benefit to the interested person attracts violation of provisions of section 13(1)(c) r.w.s. 13(3) of the Act and as the explanation of the Ld. AR was not found tenable, the benefits of exemption u/s 11 of the Act were withdrawn and had assessed the total income of the assessee at ₹3,46,87,618/- u/s 143(3) r.w.s. 13(1)(c) r.w.s. 13(3) of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who, vide a detailed order dated 25.04.2017 with reference to the grounds of appeal as also the order of the ITAT, enhanced the total income of the assessee at ₹12.77 Crore to be taxed as per section 164(2) of the Act at the maximum marginal rate.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. In respect of Ground No. 1, the Ld. DR argued that the notice of hearing was issued and an opportunity was provided; however, the Ld. AR countered that no specific notice for enhancement of the income was given which is not only statutorily required but was also



require in view of the specific directions issued by the Tribunal while remanding the appeal before the Ld. CIT(A).

6. We have gone through the order of the Ld. CIT(A) and noted that the assessee's contention that no specific notice was given appears to be correct. It may be highlighted that the Tribunal vide order in **ITA No. 439/KOL/2013** for AY 2008-09 had set aside the appeal order by giving finding as per para 7. In the appeal decided subsequent to the directions of the Hon'ble Tribunal, the Ld. CIT(A) has again upheld the addition of ₹12.77 Crore paid to BCCI as against the assessment made at the total income of ₹1,54,59,284/-. Since there was an enhancement and as directed by the Ld. AR, in para 15 of the consequential appeal order, he has merely reproduced the details examined by the then Ld. CIT(A). Further, in paras 15.2, 15.3 and 15.4, the violation u/s 13 as also u/s 11 of the Act have been discussed; however, in para 16.6 it is mentioned that the exemption u/s 11 of the Act is not to be denied in toto, but only on such part of the income that had violated section 13 and has concluded the amount to be taxed at ₹12.77 Crore. However, as has been rightly pointed out by the Ld. AR, no show cause notice was issued to the assessee before enhancement of income in the consequential appeal proceedings as is specifically required to be given as per the provisions of sub-section (2) of section 251 of the Act and, therefore, the enhancement is in violation of the principles of natural justice as also the statutory provisions in this regard. The Ld. DR could not bring to our notice any such opportunity granted. Thus, in the interest of justice, the matter is again remanded to the Ld. CIT(A) to grant opportunity of hearing to the assessee before enhancement of the income and consider the submissions before enhancing the income as per law.



7. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 21st November, 2025.

Sd/-

[George Mathan]

Judicial Member

Sd/-

[Rakesh Mishra]

Accountant Member

Dated: 21.11.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Sahara Welfare Foundation, Sahara India Sadan, 2A, Shakespeare Sarani, Kolkata, West Bengal, 700071.**
2. **DCIT (Exemptions), Circle-1, Kolkata.**
3. CIT(A)-25, Kolkata.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

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By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata