

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.186/Chny/2019, Assessment Years: 2013-14

M/s.Anbu Educational Trust,
No.468/2, MGR Nagar,
Pallipalayam Road,
Komarapalayam,
Tamil Nadu-638 183.
[PAN: AABAA0602Q]

Income Tax Officer,
Ward-5,
Namakkal.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.332/Chny/2019, Assessment Years: 2013-14

Income Tax Officer,
Ward-5,
Namakkal.

M/s.Anbu Educational Trust,
No.468/2, MGR Nagar, Pallipalayam
Road,
Komarapalayam,
Tamil Nadu-638 183.
[PAN: AABAA0602Q]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: T.Vasudevan, Advocate

प्रत्यर्थी की ओर से /Revenue by

: Mr.Saujanya Rajan, JCIT(Virtual)

सुनवाई की तारीख/Date of Hearing

: 25.09.2025

घोषणा की तारीख /Date of Pronouncement

: 21.11.2025

आदेश / O R D E R

PER AMITABH SHUKLA, A.M. :

The below mentioned appeals have been filed by the appellant assessee for AY-2013-14 contesting the order of Ld. First Appellate Authority indicated Column-E, herein below:-

S. No.	Appeal Nos.	AYs	Appellant	CIT(A) Order Details	Respondent
A	B	C	D	E	F
1	ITA No.186 / Chny / 2019	2013-14	M/s.Anbu Educational Trust, No.468/2, MGR Nagar, Pallipalayam Road, Komarapalayam, Tamil Nadu-638 183. [PAN: AABAA0602Q]	ITA No.125/2016-17 Dt. 26.11.2018	Income Tax Officer, Ward-5, Namakkal.
2	ITA No.332 / Chny / 2019	2013-14	M/s.Anbu Educational Trust, No.468/2, MGR Nagar, Pallipalayam Road, Komarapalayam, Tamil Nadu-638 183. [PAN: AABAA0602Q]	ITA No.125/2016-17 Dt. 26.11.2018	Income Tax Officer, Ward-5, Namakkal.

ITA No.186/Chny/2019

2.0 The appellant assessee has assailed the order of Ld.CIT(A) raising some 20 grounds of appeal. Ground of appeal Nos. 1 and 20 are general in nature and do not require any specific adjudication and hence are dismissed. Before considering the grounds of appeal it is imperative to examine the brief factual matrix of the case. Return of Income declaring income of Rs.6,82,010/- was filed by the assessee. There was no compliance to the various notices of hearing issued by the Ld.AO. After considering the material on records, the Ld.AO proceeded to make ex-parte addition of Rs. 4,11,30,000/- on account of unproven credits and of Rs.10,90,366/- u/s 40(a)(ia) of the Act. The assessee had shown liabilities on account of unsecured loans and security caution deposits from students which were treated as unproven credits. The assessee contested before the Ld.CIT(A) who called for remand report. As per

para 11 of the appellate order after considering the remand report and the submissions of the appellant he gave part relief to the assessee. Thus, out of unproven credit relief of Rs.80,50,000/- was given and addition of Rs.1,27,40,000/- was confirmed. Similarly, on the connected issue of interest free caution deposits from the students, addition of Rs.13,36,720/- was deleted and Rs.1,08,15,280/- was sustained. The disallowance of Rs.10,90,366/- u/s 40(a)(ia) of the Act was sustained for want of any evidence. The Ld.AO had also denied the assessee benefit of exemption u/s 11. The Ld. AO in remand proceeding had contested that the pending proceeding before the Ld.CIT(A) cannot be equated with pendency of proceedings before the Ld.AO and that therefore the assessee was not liable for benefit of exemption u/s 11. The Ld.CIT(A) overruled AO's findings and held that pending proceeding before the Ld.CIT(A) can be equated with pendency of proceedings before the Ld.AO. We therefore held that the assessee is eligible for benefit of exemption u/s 11 of the Act.

3.0 During the course of present proceedings, the Ld.Counsel for the assessee has filed an extensive paper book comprising confirmations from the lenders, ledger extracts, bank statements, Returns of Income as well as copies of judicial precedents governing the matter in supports of its contentions. The same has been placed on records and considered for the adjudication of this appeal.

4.0 The ground of appeal Nos. 2 to 10 are concerning the addition of Rs.1,27,40,000/- confirmed by the Ld.CIT(A). The Ld. Counsel for the assessee vehemently argued concerning the veracity of the additions. It has been contested that the impugned parties are identifiable, have given the loans through banking channels and that therefore there cannot be any doubt about the veracity of the same. The Ld.Counsel has forcefully argued that the entire addition has been recommended in the remand report by the Ld.AO doubting the source of source. The Ld.Counsel invited attention to observations of the Ld.AO regarding unexplained cash deposits in the banks accounts of lenders, immediately before advancement of loans. It was argued that the authority to verify source of source u/s 68 has got vested with the Revenue only w.e.f. 01.04.2023 when the Finance Act 2022 brought an amendment as first proviso to the said section. It was argued that once the identity of the creditor was established, its credit worthiness and genuineness of transaction was established, no addition u/s 68 was permissible. To this effect the Ld.Counsel submitted that the conclusion of the Ld.CIT(A) / Ld.AO were flawed. Reliance was placed, inter-alia, upon decision of Hon'ble Madras High Court in the case of Hastimal as at 49 ITR 273.

5.0 Per contra, the Ld. DR relied upon the order of lower authorities. It was fiercely contested that the issue of source of source is only material for assessment proceedings and not remand proceedings. It was said

that assessee's arguments are non-maintainable since the present proceedings were remand proceedings. The Ld.DR accordingly, placed reliance upon the order of Ld.CIT(A).

6.0 We have heard the rival submissions in the light of material available on records. At this stage we deem it necessary to reproduce the provisions of the section 68 of the Act as amended by Finance Act 2022:-

*“....⁴⁰**68.** ⁴¹Where any sum is found credited in the books ⁴²of an assessee maintained for any previous year, and the assessee offers no explanation ⁴²about the nature and source thereof or the explanation offered by him is not, in the opinion of the ⁴³[Assessing] Officer, satisfactory, the sum so credited may ⁴²be charged to income-tax as the income of the assessee of that previous year :*

*⁴⁴[⁴⁵**Provided that where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by such assessee shall be deemed to be not satisfactory, unless,-***

(a)	<i>the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and</i>
(b)	<i>such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:</i>

***Provided further** that] where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless-*

(a)	<i>the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and</i>
(b)	<i>such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:</i>

*⁴⁶[**Provided also**] that nothing contained in the first proviso ⁴⁷[or second proviso] shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23FB) of section 10.]....”*

7.0 We have carefully considered the voluminous paper book and Written Submissions filed by the rival parties on record. The arguments put forth by the Ld.AO in his remand report have been examined at length. We have noted that the Ld.CIT(A) has placed full reliance only upon the remand report. We have also noted that in the remand report the Ld.AO has primarily contested grant of any relief to the assessee on the premise that the source of source is doubtful. The Ld.AO has casted doubts upon the impugned loans holding that the lenders of the assessee have unexplained credits in their bank accounts etc and / or they did not had sufficient income sources to justify their creditworthiness. In this regard, we find sufficient force in the argument of the appellant assessee that Revenue authorities have got powers to examine source of source only upon insertion of first provisio u/s 68 by the Finance Act 2022 w.e.f. 01.04.2023. Thus, prior to the above amend source of source could not be questioned. Once a lender was identifiable and amounts were disbursed through banking channels, loans u/s 68 were liable to be accepted in the hands of recipients. Revenue did possess authority to initiate corrective action in the hands of lenders qua their assessments for the impugned sources. Accordingly, we are of the considered view that no case of any addition is made out in the hands of the assessee u/s 68 for the year under consideration. The order of Ld.CIT(A) is therefore set aside and the Ld.AO is directed to delete the impugned addition of

Rs.1,27,40,000/- confirmed by the Ld.CIT(A). **Grounds of appeal nos. 2 to 10 raised by the assessee are therefore allowed.**

8.0 The next issue raised by the assessee through grounds of appeal nos. 11 to 14 & 16 are regarding the addition of Rs.1,08,15,280/- confirmed by the Ld.CIT(A) on account of security caution deposits. The Ld.Counsel for the assessee submitted that it is a regular business practice to take interest free caution deposits from the students at the time of admission and that upon completion of the course the same is returned back without interest. The Ld.CIT(A) noted the observation of Ld.AO that only 11% of the deposits were confirmed. Consequently the Ld.CIT(A) concluded that 89% of the deposits are unexplained. The Ld.Counsel for the assessee submitted that the Revenue has postulated that the security caution deposits from students is an unexplained entry. It was vehemently argued that year on year, receipt and return of caution deposits is an ongoing process. The Ld.Counsel informed that during remand proceedings, the Ld.AO had issued query letters to only 100 students out of the total 949. Out of said 100 merely 10 responded out of which 8 students confirmed the payment of caution deposit. Thus, it was stated that sample size adopted by Ld.AO for his enquiry was far too small to yield any justifiable result. It was argued that mere non-response from students cannot be construed as the particular student not paying any security deposit to the assessee. The Ld.Counsel reiterated

that, security deposit is taken by all the educational entities in their line of business. It was submitted that security deposit of Rs.27 lakhs, 54.88 lakhs and 121.52 lakhs were collected during FY-2009-10, 2010-11 and 2012-13 respectively. The non-response from the students was attributable to change of their station etc. The Ld.Counsel submitted that in order to ward off competition the appellant assessee has decided to waive of security deposit to incentivize new admissions and also that w.e.f. Financial Year 2014-15 deposits collected in earlier years have been returned. It was submitted that as evident from the balance sheet for AY-2015-16 closing balance of security caution deposit of Rs. 69,000/- only.

9.0 Per contra, the Ld. DR relied upon the order of lower authorities. It was argued that the Ld.AO has made recommendations based upon his enquiries during remand proceedings.

10.0 We have heard rival submissions in the light of material available on records. Interest free security caution deposit is a routine deposit accepted by almost all educational institutions. The word interest free itself denotes that the same is liable to be returned to the donor upon completion of the tenure. The assessee has given details which indicates that it has been regularly receiving Interest free security caution deposit from its students. The assessee has also placed on records the security deposits was returned back to the students in years following their

receipt. Thus, receipt and return of Interest free security caution deposit has been found to be a routine phenomena. We have also noted that the same size adopted by the Ld.AO to verify Interest free security caution deposit was far too small to have yielded any acceptable results. Therefore, the action of the Ld.CIT(A) in confirming the addition to the extent of Rs.1,08,15,280/- has been found to be not borne out from correct understanding of records. We have also note that whereas on 31.03.2014 Interest free security caution deposit balance was reported at Rs.2,03,40,000/-, on 31.03.2015, the same was Rs.69,000/-. This vindicates the assessee's position that the Interest free security caution deposit is a genuine transaction and an amount which was being returned to the students. The allegation of the same being unexplained therefore cannot survive. The addition is based upon inadequate enquiry and investigation. Accordingly, we are not inclined to accept the hypothesis adopted by the Ld.CIT(A) to confirm the addition of Rs.1,08,15,280/-. We therefore set aside the order of the Ld.CIT(A) and direct the Ld.AO to delete the impugned addition of Rs.1,08,15,280/- on account of Interest free security caution deposit of the students. **Grounds of appeal 11 to 14 & 16 of the assessee are therefore allowed.**

11.0 The ground of appeal no.15, 17 to 19 are regarding the addition made by the Ld.AO of Rs.10,90,366/-. The lower authorities have made the impugned addition for want of necessary supporting evidences.

Before us the Ld.Council have adduced evidences to allude that either the payments did not attract TDS or were below the threshold limit to attract deduction pe se.

12.0 Per contra the Ld.DR placed reliance upon order of lower authorities.

13.0 We have heard rival submissions in the light of material available on records. The impugned details and evidences have been placed on records for the first time. Be that as it may be, we are of the view that the matter deserves a verification at the level of Ld. AO. We therefore remit the matter to the file of Ld. AO to conduct an indepth examination of the evidences and take a decision on applicability of TDS provisions in accordance with law. **The grounds of appeal no.15, 17 to 19 raised by the assessee are therefore allowed for statistical purposes.**

ITA No.332/Chny/2019

14.0 The Revenue through the CO vide ITA No.332 has contested the decision of Ld.CIT(A) in granting exemption u/s 11 to the assessee holding that pendency before the Ld.CIT(A) is akin to pendency before the assessing officer. The Ld. DR has vehemently argued against the order of Ld.CIT(A). It has been contended that the decision of Hon'ble Madras High Court in the case of Soundaram Chokkanathan Educational and Charitable Trust as at 125 taxmann.com 340 which is, inter-alia, based upon decision of Allahabad High Court in the case of Shivkumar

Sumitra Devi Smarak shikshan sansthan as at 113 taxmann.com 334 has held that the pendency of appeal before the Ld.CIT(A) is not the same as those before the assessing officer as far as grant of exemption u/s 11 r.w.s.11A of the Act.

15.0 The Ld.Counsel for the assessee placed reliance upon the decision of Ld.CIT(A).

16.0 We have heard the rival submissions in the light of material available on records. We have noted that the decision of Hon'ble Madras High Court in the case of Soundaram Chokkanathan Educational and Charitable Trust cited by the Revenue is squarely covers the issue in favour of Revenue. **Accordingly, in respectful compliance to the order of Hon'ble Madras High Court we set aside the order of the Ld.CIT(A) and allow all the grounds of appeal raised by the Revenue.**

17.0 In the result, the appeal of the Revenue is allowed

18.0 In the result, the appeal of the assessee in ITA No.186 / Chny / 2019 is Partly Allowed and appeal of the Revenue in ITA No.332 / Chny / 2019 is Allowed.

Order pronounced on 21st, November-2025 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 21st , November-2025.
KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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