

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI “G” BENCH: NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.2121 & 2122/Del/2025**

**[Assessment Year : 2023-24 & 2024-25]**

Vindhya Trust B-60/61, C/O-Bajaj Auto Limited, Naraina Industrial Esate, Phase- II, South West Delhi, New Delhi-110028. <b>PAN-AAATC0303K</b>	vs	DCIT, Circle-49(1), Civic Centre, New Delhi
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Mahender Gohel, CA	
<b>Respondent by</b>	Shri Manish Gupta, Sr.DR	
<b>Date of Hearing</b>	16.09.2025	
<b>Date of Pronouncement</b>	28.11.2025	

**ORDER**

**PER BENCH :**

The captioned appeals are filed by assessee against the different orders, both dated 06.02.2025 passed by Ld. Commissioner of Income Tax (A)/ ADDL/JCIT (A)-3, HYDERABAD [“Ld. CIT(A)”] in Appeal No. DDL/JCIT (A)-3 HYDERABAD/10041/2022-23 and Appeal No. DDL/JCIT (A)-3 HYDERABAD/10004/2023-24 u/s 250 of the Income Tax Act, 1961 [“the Act”] arising out of intimation order dated 14.02.2024 and 30.10.2024 passed u/s 143(1) of the Act pertaining to assessment year 2023-24 & 2024-25 respectively.

2. As both these captioned appeals filed by the assessee are having similar issues which are inter-linked, inter-connected and this fact has been admitted by both the parties during the course of hearing before us, therefore, both these appeals filed by the assessee are decided by a common order.

**ITA No.2121/Del/2025 [Assessment Year : 2023-24]**

3. First we take up the appeal of assessee in ITA No. 2121/Del/2025 for Assessment Year 2023-24.

4. Brief facts of the case are that assessee, M/s Vindhya Trust (“Appellant”) is an AOP/BOI and had filed its return of income on 19-07-2023, declaring total income of INR 11,65,83,760/-. The return was processed by the AO, CPC u/s. 143(1) of the Act, vide intimation/order dated 14.02.2024, accepting the returned income. However, the AO, CPC levied tax at a flat rate of 30% as against the appellant's claim to pay tax at slab rates as applicable in the case of an individual. Similarly, the AO, CPC charged surcharge @ 37% instead of 15% as applicable in the case of an individual.

5. Against the said order, assessee filed an appeal before Ld. CIT(A) who vide order dated 06.02.2025, has directed the AO to verify the shares of members and if the total income of any member of the AOP (excluding his share from such association or body or Executor of AJP) does not exceeds the maximum amount which is not chargeable to tax. If on such verification the claim of appellant is found that the

shares of members of appellant AOP are determined and income of any member does not exceed the maximum amount which is not chargeable to tax, then compute the tax as per the slab rate and surcharge as applicable.

6. Aggrieved by the order of Ld. CIT(A), assessee is in appeal before the Tribunal by taking following grounds of appeal:-

*“Ground 1 ADJUSTMENT MADE UNDER SECTION 143(1) OF THE ACT: On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) [CIT(Appeals)] erred in confirming tax at flat rate of 30% levied by the Assistant Director of Income Tax, CPC (hereinafter referred to as "the AO"). It is submitted that the adjustment has been made without affording the appellant any opportunity of being heard and the same is in gross violation of principles of natural justice and also the provisions of Section 143(1) of the Act. The Appellant prays that the adjustment made is illegal, unwarranted and contrary to the law and may therefore kindly be struck down/deleted.*

*Ground 2. RATE OF TAX: 2.10n the facts and in the circumstances of the case and in law, the learned CIT(A) erred in confirming the Tax levied by the learned Assessing Officer (CPC) at flat rate of 30%, instead of normal slab rates applicable in the case of the Appellant while processing the Return of Income under Section 143(1) of the Act. 2.2 The learned CIT(A) failed to appreciate that the Appellant is an Association of Persons (AOP), a charitable trust not availing benefits of Section 11 of the Act and is liable to pay tax at the slab rates applicable in the case of an Individual, etc. The Appellant prays that the learned Assessing Officer may kindly be directed to re-compute the tax by applying the normal slab rates and reduce the tax levied accordingly.*

*Ground 3. ERRONEOUS LEVY OF SURCHARGE: The learned CIT(A) erred in confirming the surcharge levied by the learned Assessing Officer at the rate of 37% on the entire Income of the Appellant instead of the applicable rate of 15% in the case of the Appellant while processing the Return of Income filed for the above year under Section 143(1) of the Act. The learned CIT(A) failed to appreciate that the Total Income of the Appellant for the above year is Rs. 11,65,83,760/- (including the income by way of Dividend Rs. 10,55,62,980/-) which exceeds Rs.5 crores. However, it is not covered by either Clause (iii) or clause (iv) of the Paragraph (A) of Part-1 of First Schedule to the Finance Act as Total Income excluding Dividend Income of Rs.*

*10,55,62,980/- is only Rs. 1,10,20,784/- and hence, surcharge is payable on such income @ 15% and not @ 37%. Kindly refer to the Grounds of Appeal.*

*Ground 4. INTEREST UNDER SECTION 234B & 234C: On the facts and in circumstances of the case and in law, the learned CIT(A) erred in levying interest of Rs 3,74,318/- under the provisions of Section 234B and Rs. 1,31,266/- under the provisions of Section 234C of the Act, while processing the Return of Income under Section 143(1) of the Act. The appellant prays that the erroneous interest charged under Section 234B and Section 234C may kindly be deleted as the same is contrary to the law and unwarranted. The appellant hereby reserves the right to add to, alter or amplify the above grounds of appeal.”*

7. Before us, the Ld. AR of the assessee submits that assessee is a trust and is engaged in the charitable activities for the benefit of public at large. The assessee has not claimed any benefit u/s 11 of the Act and is assessed to tax as per the rates prescribed normal slab rate, however, it was assessed at Maximum Marginal Rate (MMR) by treating the same as of AOP/BOI. Further, he placed reliance on the judgments of the Co-ordinate Bench of the Tribunal in the case of Vindhya Trust vs. DCIT in ITA No.131/Del/2025 and Rose Trust in vs. DCIT in ITA No.3036/Del/2024. The Ld. AR also filed a written submission which is reproduced herein below for convenience.

8. On the other hand, the Ld. Sr. DR supports the orders of lower authorities and requested for the confirmation of the same.

9. Heard both the parties and perused the materials available on record. The ld. CIT(A) has given following direction:

*8.2.10 However, there may have been a mistake/ error/ technical problem while filing the return of income with respect to the information filled in 'AUDIT INFORMATION' section of*

*return of income particularly with regard to the percentage of shares (if determined) being shown as '0'. Therefore, in the interest of natural justice the Assessing Officer is directed to grant an opportunity to the appellant to produce necessary documentary evidence to demonstrate that the shares of members are determined and the total income of any member of the AOP (excluding his share from such association or body or Executor of AJP) does not exceeds the maximum amount which is not chargeable to tax. If on such verification the claim of appellant is found that the shares of members of appellant AOP are determined and income of any member does not exceed the maximum amount which is not chargeable to tax, then compute the tax as per the slab rate and surcharge as applicable”*

10. From the observations of ld. CIT(A) it is seen that ld. CIT(A) has filed to appreciate the fact that the appellate society is a charitable trust and does not for claim any benefit of exemption u/s 12A of the Act. As per the assessee, the CBDT Circular No. 320 dated 11.01.1982 [F.No.131(31)/81-TP (Pt.)] deals with this issue. The said Circular is reproduced as under:

**"Circular: No. 320 [F. No. 131(31)/81-TP (PL)], dated 11-1-1982-SECTION 167A ASSESSMENT WHERE SHARES OF MEMBERS UNKNOWN)**

**911. Whether the section is applicable to income received by trustees on behalf of provident funds created exclusively for the benefit of employees**

1. A reference is invited to paragraph 15.1 to 15.7 of the Explanatory Notes on the provisions relating to direct taxes in the Finance Act, 1981 [Circular No. 308, dated 29-6-1981] which explain the scope and ambit of section 167A, as inserted by the Finance Act, 1981.

2. A question has been raise whether the provisions of section 167A of the Income tax Act which provide for charging of tax at the maximum marginal rate on the total income of an association of persons where the individual shares of members in the income of such association are indeterminate or unknown would also apply to income receivable by trustees on behalf of

*provident funds, superannuation funds, gratuity funds, pension funds, etc., created bona fide by persons carrying on business or profession exclusively for the benefit of the persons employed in such business. The Board have been advised that cases where income received by the trustees on behalf of a recognized provident fund, approved superannuation fund and approved gratuity fund is governed by section 10(25) of the Income-tax Act, the question of their being charged to tax does not arise*

*So far as cases where income is receivable by the trustees, on behalf of an unrecognized provident fund or an unapproved superannuation fund, gratuity fund, pension fund or any other fund created bona fide by a person carrying on a business or profession exclusively for the benefit of persons employed in such business or profession are concerned, they will continue to be charged to tax in the manner prescribed by section 164(1)(iv) of the Income-tax Act, as hitherto. **Similarly, in the cases of registered societies, trade and professional associations, social and sports clubs, charitable or religious trusts. etc., where the members or trustees are not entitled to any share in the income of the association of persons, the provisions of new section 167A will not be attracted and, accordingly, tax will be payable in such cases at the rate ordinarily applicable to the total income of an association of persons and not at the maximum marginal rate".***

11. As could be seen from the fact of the case, the assessee trust has fulfilled all the condition of the said circular and thus, is eligible to charge tax at the slab rates prescribed for AOP for Assessment Year 2023-24. Accordingly, we hold that the tax should be charged in the case of the assessee as per normal slab rate of AOP and also charge Surcharge in accordance with the rates prescribed. With this directions we allowed all the grounds of appeal taken by the assessee.

12. In the result, appeal of the assessee is allowed.

**ITA No.2122/Del/2025 [Assessment Year : 2024-25]**

13. Now we take up the appeal of assessee in ITA No. 2122/Del/2025 for Assessment Year 2024-25.

14. Heard the contentions of both parties and perused the material available on record. In this appeal, facts are similar and identical and also decided in favour of the assessee in ITA No.2121/Del/2025 for Assessment Year 2023-24. Thus, by respectfully following the said observations which are applied *Mutatis Mutandis* to the facts of case under consideration, appeal filed by the assessee is allowed.

15. In the result, appeal of the assessee is allowed.

16. In the final result, appeals of the assessee in **ITA Nos.2121 & 2122/Del/2025 [Assessment Years 2023-24 & 2024-25]** are allowed.

Order pronounced in the open Court on 28.11.2025.

**Sd/-**

**(ANUBHAV SHARMA)  
JUDICIAL MEMBER**

**Sd/-**

**(MANISH AGARWAL)  
ACCOUNTANT MEMBER**

**Date:- 28.11.2025**

*\*Amit Kumar, Sr.P.S\**

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ASSISTANT REGISTRAR  
ITAT, NEW DELHI