

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री जगदीश, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 1532/CHNY/2025
निर्धारण वर्ष/Assessment Year: 2011-12

**Shri Narayani Siddhar Peedam
Charitable Trust,**
Rep. by Trustee,
K. Soundararajan,
Thirumalaikodi,
Ariyur Village,
Vellore – 632 055.

**The Deputy Director of
Income Tax,**
Vs. (Exemptions – III)
Chennai

PAN: AAATN 3254F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri N. Muralikumaran, Sr. Advocate
: Ms. Mythili, JCIT

सुनवाई की तारीख/Date of Hearing

: 25.11.2025

घोषणा की तारीख/Date of Pronouncement

: 26.11.2025

आदेश/ ORDER

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed by the assessee is directed against the order of Addl/JCIT(A)-5, Mumbai dated 29.03.2025, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2011-12.

2. The grounds raised read as follows:

A. The CIT Appeals failed to take note of the fact that the Assessing Officer neither wanted any confirmation at the Donors from the Assesses nor before passing of the Assessment Order any information was, divulged regarding the non-response of the some of the donors for the confirmation sought by the assessing Officer,

B. The CIT Appeals and in relying on the decision rendered us 68 of the Income Tax Act where the burden of Proof to be discharger by the assessee is completely different from the burden of proof or the requirement of the evidence to be maintained ant adduced by the Assessee u/s 115BBC of the Income Tax Act.

C. The object of sub-section (i) of section 115BBC(1) was neither understood nor applied thy the Assessing Officer as well as the CIT Appeals

D. The Assessing Officer as well as the CIT Appeals failed to take note of the fact that the requirement of the Assessee which receives donation is to maintain a record of identity of the person limiting to the name and address and not of any further of other details and that the requirement of maintaining the details of PAN and Aadhar card that too if available, was not force during the relevant assessment year

E. It is apparent that the Order of the First Appellate Authority is a mechanical one without the application of mind to the facts of the case The Order of the Assessing Officer is not only an arbitrary exercise of power beyond its scope and jurisdiction, but an apparent violation of principles of Natural Justice.

F. The framing of the Assessment Order is in a whimsical manner and is in violation of the statute and rules governing the maintenance of records by an assessee.

3. Brief facts of the case are as follows: The assessee is a public charitable trust registered u/s.12AA of the Act. The assessee trust also enjoys approval u/s.80G(5)(vi) of the Act. For

the assessment year 2011-12, the return of income was filed on 30.09.2011 declaring total income of Rs.Nil. The total receipts / donations received from various persons during the relevant assessment year was Rs.3,07,30,352/-. The assessment was selected for scrutiny and notice u/s.143(2) of the Act was issued on 13.09.2012. During the course of scrutiny proceedings, assessee was directed to file the details of donors. On receipt of the details of donors from the assessee, the AO issued letters to certain donors to file confirmation. The confirmation letters were received from all the donors, except in 14 cases. In the case of 14 donors, the donations received amounting to Rs.23,15,008/- was treated as taxable u/s.115BBC of the Act in the assessment completed u/s.143(3) of the Act vide order dated 31.03.2014.

4. Aggrieved by the assessment completed u/s.143(3) of the Act, assessee filed appeal before the First Appellate Authority (FAA). Before the FAA, assessee filed confirmation to the tune of Rs.17,13,508/-. Further, it was submitted that assessee ought to be granted exemption of 5% of the total donations of Rs.3,07,30,352/- amounting to Rs.15,29,038/- as envisaged u/s.115BBC(1)(i)(A) of the Act. Therefore, it was contended that for Rs.6,01,500/- (for which confirmation is yet to be obtained) is

well below the eligible limit of Rs.15,29,038/- u/s.115BBC(1)(i)(A) of the Act. The FAA however, rejected the contentions of the assessee. The FAA held that assessee has not produced the Aadhaar card and PAN number to the donors, to prove the capacity to give the said donations. The relevant finding of the FAA reads as follows:-

5.2.3 The submission made by the appellant is considered. It is seen that out of total 15 donors the appellant has submitted the confirmation in respect of 11 persons. However these confirmations are not supported by return of income or any other document establishing the capacity of such persons to give donation. The appellant has also not furnished the copy of Aadhar card or PAN card (except for PAN card or Shri Seetharamireddy Ramireddy). Thus the appellant has not established the identity of the donors. It may be mentioned that merely entering a transaction through the banking channel does not make a transaction sacrosanct and genuine (CIT v. Precision Finance (P.) Ltd., [1995] 82 Taxman 31/[1994] 208 ITR 465). Thus, it is held that the appellant has not conclusively established the identity and creditworthiness of the donor and genuineness of the transaction. I therefore do not find any infirmity in the order of the AO. The addition made u/s 115BBC of Rs.21,99,258/0 is hence confirmed. These grounds of appeal are therefore dismissed.

5. Aggrieved by the order of the FAA, assessee has filed the present appeal before the Tribunal. The Ld.Senior Counsel for the assessee submitted that assessee had furnished all the relevant details of the donors to the AO. It was submitted that out of details submitted by assessee trust, the AO has issued notice to certain donors. It was submitted that majority of the donors had responded and filed confirmation. However, few of them (which

assessee was not aware then) had not responded. The Ld.Senior Counsel submitted that assessee trust had obtained confirmation subsequent to the assessment order to the extent of Rs.17,13,508/-. It was submitted that the FAA has erred in confirming the addition made by the AO by relying on the decision rendered u/s.68 of the Act. It was submitted that the burden to prove or requirement of evidence as mandated u/s.115BBC of the Act has been furnished and the addition sustained is not warranted.

6. On the other hand, the Ld.DR supported the orders of the AO and the FAA.

7. We have heard rival submissions and perused the material on record. The AO had added a sum of Rs.23,15,008/- u/s.115BBC of the Act on the ground that confirmations were not received from certain donors in response to the notice issued. Before the FAA, out of the total donation treated as anonymous for want of confirmation, assessee obtained confirmation to the extent of Rs.17,13,508/-. For the balance of Rs.6,01,500/- for which confirmation was yet to be obtained, assessee submitted it was eligible for exemption limit of Rs.15,29,038/-

u/s.115BBC(1)(i)(A) of the Act. The FAA however, held the confirmation given by the assessee are not supported by the return of income or other document establishing the capacity of such donor to give donations. In this context, the FAA followed the judgment of the Hon'ble Calcutta High Court in the case of CIT vs. Precision Finance (P) Ltd, reported in 208 ITR 465. The Judgment of Hon'ble Calcutta High Court is in context of burden of proof u/s.68 of the Act and does not have the application of provisions of section 115BBC of the Act.

8. The Delhi Bench of the Tribunal in the case of Sunder Deep Educational Society vs. ACIT in ITA No.2428/Del/2011 (order dated 6.12.2013) had held that donation could not be treated as anonymous u/s.115BBC of the Act, since assessee had maintained a record with regard to identity i.e., name and address of the persons making donations. It was further held by the Delhi Bench of the Tribunal that the nature of the burden prescribed u/s.68 of the Act does not have an application to section 115BBC of the Act. The gist of facts and conclusions of the order of the Delhi Tribunal in the case of Sundeer Deep Educational Society (*supra*) reads as follows:-

"S. 11 Law on taxability of voluntary donations as "anonymous donations" u/s 115BBC or as "cash credit" u/s 68 in hands of charitable trust explained

The assessee, a charitable institution, received donations of Rs. 3.55 crore. It maintained a record indicating the name and address of the donor. It claimed that the said donations had been applied for charitable purposes as per s. 11 and nothing was assessable. The AO conducted a test check by sending letters to the donors. To the extent of donations aggregating Rs. 1.96 crore, the letters came back undelivered or were not replied to. The AO held that as the confirmations were not received, the said donations were "anonymous donations" and assessable to tax u/s 115BBC. He held that alternatively, the said sum was assessable as a "cash credit" u/s 68 as the identity, genuineness and credit worthiness of the alleged donors was not proved. On appeal, the CIT(A) held that the said donations could not be treated as "anonymous" u/s 115BBC though he upheld the AO's stand that the said sum was assessable as a "cash credit" u/s 68. On further appeal by the assessee to the Tribunal HELD allowing the appeal:

i. S.115BBC which assesses "anonymous donations" does not apply because the assessee has maintained a record of the identity indicating the name and address of the person making the contribution,

ii. S.68 seeks to assess cash credits as income. However, when the non-corporate voluntary donations are already disclosed as income and applied for charitable purposes s. 68 has no application. The fact that the complete list of donors was not filed and the donors were not produced does not mean that the assessee was seeking to introduce unaccounted money into the trust

iii. U/s 12(1) voluntary donations received without a direction that they shall form part of the corpus are deemed to be income derived from property held for charitable purposes and have to be applied towards the objects of the trust to the extent of 85%. If that is done, the donations are not assessable as income (Keshav Social & Charitable Foundation 278 ITR 152 (Del) followed

9. The prescription mentioned u/s.115BBC(3) of the Act is as per Rule 17AA of the Income Tax Rules, 1962. By insertion of Income Tax (24th Amendment) Rules, 2022 w.e.f 10.08.2022, the information which were required to be maintained as per Rule 17AA of the IT Rules, 1962, reads as follows:-

17AA(1).....

.....

(d) other documents for maintaining,-

.....

(ii) record of income of the person during the previous year, in respect of,—

(I) voluntary contribution containing details of name of the donor, address, permanent account number (if available) and Aadhaar number (if available);

10. As per Rule 17AA of IT Rules, 1962, the information sought is with regard to donors, name of donor, address, PAN and Aadhaar number. In the instant case, to the extent of Rs.17,13,508/- for which the confirmation has been obtained by the assessee, FAA had added back the entire donations of Rs.23,15,008/- for the reason that assessee has not produced the return of income or any other documents which establishes the capacity of the person to give donations. It is also stated by the FAA that assessee has not furnished the Aadhaar number or PAN number. The necessity for furnishing the Aadhaar number or PAN number was mandated only w.e..f 10.08.2022 under Rule 17AA of

IT Rules, 1962. Prior to the said date, assessee has to maintain a record of identity indicating the name and address of the person making such contribution and such other particulars as may be prescribed. The orders of AO, FAA nor DR has brought to our notice any prescription which mandate any other particulars other than name and address of the donors making the donation for the relevant assessment year. As mentioned earlier, the FAA has relied on the judgment of the Hon'ble Calcutta High Court which is in the context of section 68 of the Act, which has no application to the provisions of section 115BBC of the Act. Therefore, to the extent of confirmation obtained from donors for a sum of Rs.17,13,508/-, we delete the addition made by the AO.

11. For the balance sum of Rs.6,01,500/- (for which no confirmation is received), we restore the matter to the file of the AO. The assessee is directed to furnish the necessary evidence that these contributions have been received from persons whose identity and address were already maintained as a record. The assessee is also directed to furnish confirmations from the said donors, since it is stated that the said donations were received through banking channels. The AO is directed to afford a

reasonable opportunity of hearing before a decision is taken on the matter. It is ordered accordingly.

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

Order pronounced in the open court on 26th November, 2025 at Chennai.

Sd/-

(जगदीश)

(JAGADISH)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 26th November, 2025

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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