

**IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, VP &
MS PADMAVATHY S, AM**

**I.T.A. No. 5658/Mum/2025
(Assessment Year: 2020-21)**

Kailashpuri Seva Samiti, A-101, Madhuban CHS, Upper Govind Nagar, Malad East, Mumbai-400097. PAN: AACTK1961G	Vs.	ITO (Exemption)-(1)(4), 601, 6 th Floor, MTNL Building, Cumbala Hill, Peddar Road, Mumbai-400097.
Assessee)		
: Revenue)		

Assessee by : Shri Hitesh Shah, AR
Revenue by : Shri Himanshu Joshi, Sr.-DR
Date of Hearing : 02.12.2025
Date of Pronouncement : 09.12.2025

ORDER

Per Padmavathy S, AM:

This appeal by the by the assessee is against the order of the Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [In short 'CIT(A)'] passed under section 250 of the Income Tax Act, 1961 (the Act) dated 05.08.2025 for Assessment Years (AY) 2020-21. The assessee raised the following grounds of appeal:

“1. On the facts and circumstances of the case and in law the Ld. CIT(Appeals) NFAC Delhi erred in upholding the addition of estimation of disallowance of Rs 58,56,580 being 10 percent of the administrative expenses of Rs 2,55,54,344 and employee cost of Rs. 3,30,11,456 without opportunity and on assumptions, presumptions and surmises and therefore the violative of natural justice. The appellant prays for such estimated addition be deleted.

2. On the facts and circumstances of the case and in law the Ld. CIT(Appeals) NFAC Delhi erred in upholding the addition of Rs. 35,89,732 being the surplus in the Income and Expenditure account in the absence of registration u/s. 12AA of the Income Tax Act, 1961.”

2. The assessee is a Trust having registration u/s. 12A since 03.06.1991. The assessee is running various educational institutions. The assessee filed the return of income for AY 2020-21 on 15.02.2021 declaring a total income of Nil. The case was selected for scrutiny and the statutory notices were duly served on the assessee. The Assessing Officer (AO) called on the assessee to furnish details pertaining to the registration. The assessee vide reply dated 24.03.2022 furnished the financials of the Trust along with Audit Report in Form-10B. The AO on perusal of the details furnished noticed that the assessee has accumulated and set apart an amount of Rs. 35,89,732/- u/s. 11(2) of the Act during the Financial Year (FY) 2019-20. Since the assessee could not submit copy of the registration u/s. 12A of the Act despite giving sufficient opportunity, the AO treated the amount accumulated as the income of the assessee. The AO further disallowed 10% of the total expenditure to the tune of Rs. 58,56,580/- incurred by the assessee on the ground that the assessee did not furnish any documents in support of the expenses claimed. Aggrieved the assessee filed further appeal before the CIT(A). The CIT(A) confirmed the additions/ disallowances made by the AO. The CIT(A) did not accept the submission of the assessee that time limit for fresh application is available and that until such time the new registration is granted the old registration u/s. 12A which was granted in 1991 would hold good. The CIT(A)

upheld the additions / disallowances made by the AO stating that the application made by the assessee for re-registration is already rejected. The assessee is in appeal against the order of the CIT(A).

3. We heard the parties and perused the material on record. The ld. AR at the outset drew our attention to the registration originally granted to the assessee u/s. 12A on 03.06.1991. The ld. AR submitted that the application made by the assessee for re-registration on 07.09.2019 was rejected since the assessee could not submit any details regarding the application due to Covid-19 pandemic. The ld AR further submitted the CBDT took cognisance of the pandemic situation due to which many assessee's could not submit the details and therefore extended the time line for applying re-registration by all existing Trust till 30.06.2024. The ld. AR also submitted that the assessee once again applied for re-registration within the extended time and has been granted registration u/s. 12AA dated 02.12.2022 for AY 2022-23 to AY 2026-27 (page no. 22 & 23 of PB). The ld. AR therefore argued that the rejection of exemption and making *ad hoc* disallowance on the ground that the re-registration was rejected is not correct. On perusal of the orders of the lower authorities, we notice that the exemption has been denied for the reason that the assessee could not produce the original registration certificate u/s. 12A and that the re-registration application made by the assessee is rejected. Before us the assessee filed an application for admission of additional evidence submitting the old registration u/s. 12A. The assessee also submitted the breakup of administrative expenditure which could not be submitted before the AO due to which the AO has made the *ad hoc* disallowance. From the perusal of records, we notice that the application made for re-registration on 07.09.2019 by the assessee was rejected for the reason that the assessee did not follow up application to represent the case due to Covid-19 due to which accordingly the registration was

rejected on 08.08.2020. Since the CBDT considering the pandemic situation has extended the time line for re-registration till 30.06.2024, we see merit in the contention of the assessee that rejection of the re-registration during Covid period cannot be the sole reason for denial of exemption u/s. 11 of the Act. This is supported by the fact that the assessee has made another application for re-registration and is granted registration u/s. 12AA of the Act. Considering the overall facts and circumstances of the case, we are of the view that the lower authorities are not correct in denying the exemption u/s. 11 of the Act to the assessee without taking into account the facts and the merits of the case. We in this regard further notice that besides denying exemption u/s.11 towards accumulation, the AO made the adhoc addition of 10% of administrative expenses for the reason that the assessee could not furnish the relevant details pertaining to the expenditure claimed. In view of these facts and circumstances peculiar to the assessee's case, we deem it fit to remit the issue back to the AO in the interest of natural justice and fair play. The AO is directed to verify the claim of exemption claimed u/s.11 and the deduction claimed towards expenses on merits by calling for relevant details and allow the same in accordance with law. The assessee is directed to file the details as may be called for and co-operate with the assessment proceedings. It is ordered accordingly.

4. In result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 09-12-2025.

Sd/-
(SAKTIJIT DEY)
Vice-President
*SK, Sr. PS

Sd/-
(PADMAVATHY S)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai