



**IN THE INCOME TAX APPELLATE TRIBUNAL  
VARANASI CIRCUIT BENCH, VARANASI**

**BEFORE SHRI KUL BHARAT, VICE PRESIDENT  
AND SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

ITA No.141/VNS/2024  
Assessment Year: 2016-17

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| <b>Town Educational Society</b><br>Murli Manohar Town PG<br>College, Ballia, Uttar Pradesh-<br>277001. | v. | <b>ITO Ballia, Ward-2(4)</b><br>Shashtri Park, Bhrighu<br>Ashram, Ballia-277001. |
| <b>TAN/PAN:AADAT7633C</b>  |    |  |
| (Appellant)  |    | (Respondent)   |

|                        |                          |    |      |
|------------------------|--------------------------|----|------|
| Appellant by:          | Shri Praveen Godbole, CA |    |      |
| Respondent by:         | Shri G. P. Singh, Sr. DR |    |      |
| Date of hearing:       | 11                       | 12 | 2025 |
| Date of pronouncement: | 19                       | 12 | 2025 |

**ORDER**

**PER KUL BHARAT, VICE PRESIDENT.:**

The present appeal has been filed by the assessee against the order of the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi dated 14.06.2024, pertaining to the assessment year 2016-17. The assessee has raised the following grounds of appeal: -

*"1. That, the addition of Rs.18658039/- as unexplained money u/s 69A of the Act, on account of cash deposited in the Saving Bank account number 6176000100050071 of Punjab National Bank, Kunwar Singh Branch Ballia, in fact this account is for FEES Collection of Sri Murli Manohar Town Post Graduate College, as mentioned on the Bank statement. Thus, the source of amount deposited in the bank account is very clear and cannot be treated as unexplained*

*2. That, appellant is a registered educational institution, which run the four institutions, named Sri Murli Manohar Town Post Graduate College, Sri Murli Manohar Town Intermediate College, Gulab Devi Girls Post Graduate College and Gulab Devi Girls Intermediate College. This particular Bank account has been maintained by the Sri Murli Manohar Town Post Graduate College, where the fees collected in cash had been deposited in this Bank account. AO had failed to consider the fact that*

*assessee is an educational institution covered u/s 10(23c) (iiiab), being fully aided by the Government of UP for the salary payment and the deposits in the bank account represented fee from students which are duly recorded in the cash book.*

*3. That, appellant had maintained the source of cash collection, which were deposited in the Bank account after recording in the Cash Book, which is explained now with the various types of fees collection, which were subsequently transferred to other fund, as per the collection in head Audio Visual, Scouting, Reading room, Library, Rashtra Nirman, Environmental! fund etc.*

*So, the provision of section 69A could not be invoked due to recording of cash collection in the cash book of the institution and thus the unjustified assessed income must be quashed and the necessary relief should be given to the appellant.*

*4. That, the action was initiated against the Town Educational Society, which is an AOP but the Bank account was maintained in the name, style and ownership of student fees of Post Graduate College, as also evident from the attached Bank statement, the controlling society has not owned any assets and only in the facilitating position due to very fact that the Education is under the Govt. fundamental rights and can never be of business orientation, due to which the Govt. affiliation was given in the 1950. It was the Bank, who demanded the PAN to regulate and report the cash deposit to the Income Tax Department, otherwise these cash collections were done from the students and deposited in the Bank for the definite and well prescribed heads from the U.P. State Intermediate Education Board, institutions had no role or control to collect the fees as per their wish and desire. It is also evident that now the guardians are not interested to send their children in the Govt. aided school.*

*5. That, the appellant is a registered educational society and having no regular source of income or infrastructure or staff deployment and when notices were served to the address of Society, which was mentioned the Sri Murli Manohar Town Post Graduate College, the concerned person of college had not bothered to inform the management of Society and nothing to do with the use of PAN of society by the institution and in fact Society had no control over the Bank account, it was totally governed, controlled and operated by the Principal of institution. These were the true grounds of appeal and thus necessary relief should be given to the appellant, as the cash money deposited in the Bank account were from the students of institutions and duly recorded in the cash book of respective institution and fulfilled the criteria of non-applicability of section 69A.*

*6. That, appellant may add any further ground of appeal, paper book, statement and documents at the time of hearing.”*

2. The facts giving rise to the present appeal are that the Assessing Officer was having an information regarding cash deposited by the assessee amounting to Rs.1,86,58,039/- in its saving bank account, maintained with Punjab National Bank. Therefore, after obtaining the requisite approval of the Competent Authority, a notice under section 148 of the Income-tax Act, 1961

("Act" for short) was issued to the assessee by AO. However, the assessee failed to file its return of income for the relevant assessment year. During the course of assessment proceedings, multiple opportunities were granted to the assessee to furnish the source of the cash deposits, but no compliance was made. Consequently, the Assessing Officer proceeded to complete the assessment *ex parte* to the assessee and made an addition of Rs.1,86,58,039/- by invoking the provisions of section 69A of the Act. Aggrieved against this, the assessee preferred an appeal before the Ld. CIT(A), before him also, there was no representation on behalf of the assessee. The Ld. CIT(A) has categorically noted in the impugned order that the multiple notices of hearing were issued to the assessee; however, there was no compliance. Therefore, he also passed *ex parte* order. Thereby, he confirmed the addition made by the Assessing Officer. Now, the assessee is in appeal before this Tribunal.

3. Apropos to the grounds of appeal, the Ld. Counsel for the assessee contended that the assessee is a registered educational institution which has been running four institutions, namely Sri Murli Manohar Town Post Graduate College, Shri Murli Manohar Town Intermediate College, Gulab Devi Girls Post Graduate College and Gulab Devi Girls Intermediate College. He submitted that the bank account was maintained by Sri Murli Manohar Town Post Graduate College where the fees collected in cash was deposited in the bank account. He further contended that there were internal differences among the institutions and, therefore, the return of income for the relevant assessment year could not be filed. Thus, there was no representation on behalf of the assessee. He submitted that if an opportunity is granted, the assessee would be in a position to satisfactorily explain the

source of the cash deposits. He further submitted that, in the interest of fairness and to sub-serve the principles of natural justice, the assessee may be granted an opportunity to explain the source of the cash deposits. It was also contended that the source of such cash deposits was the fees collected from students. He further submitted that if such an opportunity is not granted, the assessee would suffer irreparable loss, resulting in gross miscarriage of justice.

4. On the other hand, the Ld. Departmental Representative (DR) opposed the submission and took us through the assessment order and the impugned order. He contended that adequate opportunities were given to the assessee and despite having multiple opportunities, the assessee chose not to comply with the statutory notices and represent its case for such negligent act no reasonable cause can be attributed. He, therefore, prayed for dismissal of the appeal.

5. We have heard the Ld. Representatives of the parties and perused the material available on records. It is an admitted fact that the cash was deposited in the bank account of the assessee. The Ld. Counsel for the assessee contended that the non-compliance occurred due to reasonable cause of the institution, which is a non-profit organization (NPO), and the bank account was maintained by Sri Murli Manohar Town Post Graduate College fee collected from student was deposited, as is evident from the bank statements. We have given thoughtful consideration to the facts of the case. The contention of the assessee is that the cash deposits are in fact amount of fee in cash collected from students, such receipts are exempt u/s 10(23C) of the Act on account of the fact that the assessee society

is fully aided by the Government of Uttar Pradesh and imparting education to the students. This fact needs verification at the end of the AO. It is well settled that if any receipt cannot be subjected to tax being exempt under law. The negligence of any tax payer would not make it taxable. Nothing to this aspect of the matter has been examined at any stage. No one can be subjected to tax if the law does not faster such liability. Accordingly, the assessment is hereby set aside and restored to the file of the Assessing Officer for *de novo* assessment. The assessee is hereby directed to co-operate in the assessment proceedings and promptly furnish the supporting evidences as called for by the AO for verification. The grounds raised in the appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 19/12/2025.

Sd/-  
[ANADEE NATH MISSHRA]  
ACCOUNTANT MEMBER  
DATED: 19/12/2025

Vijay Pal Singh, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR

Sd/-  
[KUL BHARAT]  
VICE PRESIDENT

By order

Assistant Registrar/DDO

