

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1742/Bang/2025
Assessment Year: 2022-23

The Asst. Commissioner of Income Tax, (Exemptions), Circle -1, Bengaluru.	Vs.	KJ Foundation, 58/1, Thubarahalli, Behind Sriram Samruthi Apartments, White Field Road, Bengaluru – 560 067. .PAN – AABTK 1178 N
APPELLANT		RESPONDENT

Assessee by	:	Shri Kunjan Gandhi, CA
Revenue by	:	Shri Shivanand H Kalakeri, CIT

Date of hearing	:	06.10.2025
Date of Pronouncement	:	09.01.2026

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the Revenue against the order passed by the Id. ACIT (Exemptions) for the assessment year 2022-23.

2. The only interconnected issue raised by the Revenue is that the Id. CIT(A) erred in deleting the addition made by the AO for Rs. 3,71,28,064/- representing the lease payment made to the person specified u/s 13(3) of the Act.

2.1 The necessary facts are that the assessee in the present case is a trust and engaged in educational activity. The AO during the assessment proceedings found that the assessee has made lease rent to the specified person i.e. M/s Eduspark International Pvt. Ltd., wherein the trustees of the assessee trust were the Directors and holding shares in the company. The AO based on DVO report held that the payment of Rs. 3,71,28,064/- is excessive (being 28.96% of Rs. 12,82,04,640) and, therefore, the same was disallowed under the provisions of sec 13(1)(c) of the Act.

3. On appeal, the Id. CIT(A) deleted the addition made by the AO on the ground that similar addition made by the AO in earlier years was deleted.

4. Being aggrieved by the order of the Id. CIT(A), the revenue is in appeal before us.

5. Both the Id. DR and the Id. AR before us vehemently supported the order of the authorities below as favourable to them.

6. We have heard the rival contentions of both the parties and perused the materials placed on record. At the outset, we note that this Tribunal in the own case of the assessee in earlier assessment years 2020-21 and 2021-22 in ITA Nos. 1327 and 1328/Bang/2024 vide order dated 9/6/2025 has decided the issue in favour of the assessee. The relevant findings of the order are reproduced as under:-

"10. We have carefully considered the rival contentions and perused the orders of Id. AO. We find that the identical issue was considered

by the Coordinate Bench in assessee's own case for AY 017-18 wherein in para 7 to 9, the Coordinate Bench has held that there is no violation of provisions of section 13 in this case and assessee is entitled to exemption u/s. 11 of the Act as under:-

"7. We have gone through the above findings of the learned CIT(A) and found that the Id. CIT(A) had elaborately discussed each and every facts of the case and gave findings. The Id CIT(A) in paragraph 5.11 of his order had observed that the lease rent paid to the company was never disputed by the AO in respect of the assessment years 2012-13 to 2016-17. We have also considered the argument of the Id AR, that the very same valuation report given by the approved valuer was accepted by the Id AO for other years whereas the Id AO not accepted the same for the year in question, without any reasons. This approach of the Id AO has been find fault by the CIT(A) which in our considered view is absolutely correct. Further the Id. AO has no other materials to find fault with the fair market value of the leased out property and also no records were produced before us to prove that the rent paid is excessive and not at arm's length price. In fact the Id AO has not taken any steps to find out the Arm's length price. We have also gone through the assessment order issued u/s 143(3) for the A/Y 2016-17 dated 27.12.2018 in which the Id AO had accepted the income returned by the trust. These facts were considered by the Id CIT(A) and correctly arrived the conclusion that the denial of exemption u/s 11 is not correct.

8. In so far as the ground raised by the Revenue that the Id CIT(A) ought to have obtained a remand report from the AO to ascertain the fair rental value, we are of the view that the valuation report of the approved valuer has been accepted by the Id AO in respect of the A/Y 2016-17 and further there is no compulsion under the provisions of the Act to get the same when there is a valuation report available with the authorities. The Id DR has also not placed any specific reasons for raising this ground at this point of time. We therefore not accepted the ground now raised before us.

9. Further we have also gone through the various documents filed by the assessee and found that no documentary evidence available with the Id AO in support of his allegation that there is a diversion of funds warranting to invoke sec 13(2)(c) and 13(2)(g) of the Act. We find that the allegation of the Id AO that the rent paid to the company is excessive or not at arm's length price has no supportive materials and therefore we affirm the findings of the Id CIT(A), that the assessee trust has not diverted its funds during the year in question, in favour of the persons referred in sec 13(3) of the Act and therefore the exemption u/s 11 of the Act could not be denied. Further we found that the receipt of the remuneration by the assessee's trustee from the company as Director was also not

doubted by the assessing officer of the company and hence in these circumstances the denial of the claim of exemption u/s 11 of the Act is not correct. Eventhough each assessment year is a separate one, we are convinced that in respect of the current year there is no change in circumstance and also the authorities have not placed any material evidences before us, to take a different view. We, therefore, affirmed the order of the learned CIT(A) for the disputed year by dismissing the appeal filed by the Department."

11. On careful consideration of the orders of the AO, the Id. CIT(A) and the order of the Coordinate Bench of the Tribunal for AY 2017-18, we find that this issue is squarely covered in favour of the assessee. Admittedly, the revenue has challenged the order of the Coordinate Bench before the Hon'ble High Court. But, as admitted by both the parties, at present the issue is covered in favour of the assessee. Therefore, we dismiss the appeal of the Revenue, respectfully following the decision of the Coordinate Bench in assessee's own case.

12. The facts for AY 2021-22 are also stated to be identical by both the parties and therefore the appeal for AY 2021-22 for the reasons given by us for AY 2020-21 is also dismissed."

6.1 The facts of the case on hand are identical to the facts of the case as discussed above. At the time of hearing, the Id. DR has not brought any distinguishable materials for the year in dispute vis-à-vis facts of the earlier assessment years as discussed above. Therefore, respectfully following the order of this co-ordinate Bench as discussed above, we do not find any reason to interfere in the findings of the Id. CIT(A). Hence, the ground of appeal raised by the revenue is hereby dismissed.

7. In the result, the appeal filed by the Revenue is hereby dismissed.

Order pronounced in court on 9th day of January, 2026

Sd/-

(KESHAV DUBEY)

Judicial Member

Sd/-

(WASEEM AHMED)

Accountant Member

Bangalore

Dated, 9th January, 2026

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore