आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री **एस. आर. रघुनाथा,** लेखा सदस्य **के समक्ष**

BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No.2633/Chny/2025**
निर्धारण वर्ष**/Assessment Year: 2022-23**

VS Trust, Chaitanya, No.12, Khader Nawaz Khan Road, Nungambakkam, Chennai-600 006. [**PAN: AADTV 5697 B**]	**v.**	The ITO, NCW-3(5), Chennai.
(अपीलार्थी**/Appellant)**		**(**प्रत्यर्थी**/Respondent)**
अपीलार्थी की ओर से/ Appellant by	:	Mr.Vikram Vijayaraghavan, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mr.Shiva Srinivas, CIT
सुनवाईकीतारीख/Date of Hearing	:	16.12.2025
घोषणाकीतारीख /Date of Pronouncement	:	28.01.2026

आदेश **/ O R D E R**

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals), (hereinafter referred to as 'Ld. CIT(A)'), NFAC, Delhi dated 05.08.2025 for the Assessment Year (hereinafter referred to as 'AY') 2022-23.

2. The grounds raised in this appeal by the assessee are as follows:-

> "1. On the facts and in the circumstances of the case and in law, appellate order dated 5 August 2025("Order") passed by the National Faceless Appeal Centre, New Delhi ("NFAC") under section 250 of the

Act is contrary to the facts and the law and, therefore, not tenable in law.

2. On the facts and in the circumstances of the case and in law, the NFAC erred in not granting personal hearing via video conferencing to the Appellant despite Appellant's request and accordingly impugned Order is violative of principles of natural justice and deserves to be quashed.

3. On the facts and in the circumstances of the case and in law, the NFAC erred in confirming the action of the learned assessing officer ("Ld. AO") in making an addition of INR 15,78,40,401/- on account of shares of various companies settled/ contributed to the Appellant as 'Income from other sources' under section 56(2)(x) of the IT Act.

4. On the facts and in the circumstances of the case and in law, the NFAC ought to have appreciated that at the time of the transfer of the Assets by the settlor, the beneficiaries of the Trust were only 'Relatives' within the definition of the term under proviso I to sec 56(2)(x) read with Explanation (e) to section 56(2)(vii) and hence the transfer is exempt by the virtue of the Explanation.

5. On the facts and in the circumstances of the case and in law, the NFAC ought to have appreciated that the characterisation and assessment of trust should be on the basis of the actual beneficiaries of Trust during the year and possible or potential beneficiaries.

6. On the facts and in the circumstances of the case and in law, the NFAC ought to have applied the ratio of the decision of the Apex court in the case of the trustees of H.E.N Nizam's Family (Remainder Wealth) Trust – 108 ITR 555 SC.

7. On the facts and in the circumstances of the case and in law, the NFAC ought to have appreciated that the time of transfer, the Trustees are holding the Trust property for and on behalf the stated beneficiaries, who are all 'Relatives' to whom provision of sec 56(2)(x) will not be applicable. Subsequent possible addition to the beneficiaries which are contingent on the discretion of the Trustees will not affect the actual beneficiaries at the time of transfer and possible future addition of beneficiaries, is a contingency that cannot be considered for the present assessment.

8. On the facts and in the circumstances of the case and in law, the NFAC ought to have appreciated that in any event the provision for addition of beneficiaries other than the exempted Relatives was deleted

during the year and from inception by the settlor and the Original Trustee and hence the possibility of any person other than the exempted Relatives is ruled out and hence the basis of addition made under sec 56(2)(x) does not survive. The addition require to be deleted.

9. On the facts and in the circumstances of the case and in law, the NFAC erred in confirming the action of the Ld. AO in making an addition of INR 12,00,00,000/- in relation to advance tax payment claimed as refund in the return of Income as 'income from other sources' under section 56(2)(x) of the IT Act.

10. On the facts and in the circumstances of the case and in law, the NFAC erred in confirming the action of the Ld. AO in levying interest under section 234D of the IT Act.

11. On the facts and in the circumstances of the case and in law, the NFAC erred in not quashing the action of the Ld. AO of initiating penalty proceedings under section 270A of the IT Act.

The Appellant craves leave to add, alter, amend, delete all or any of the grounds of appeal before or at the time of hearing."

3. Ground Nos. 1 and 2 are noted to be general in nature and the assessee has submitted that these grounds need not be addressed specifically. Accordingly, these grounds are dismissed.

4. Ground Nos. 3 to 8 relate to the addition made by the AO amounting to Rs.15,78,40,401/- on account of the shares of several companies settled/contributed to the assessee-Trust by its settler. The facts as noted are that, the assessee is a private trust settled on 01.09.2021 by one, Mr. Venu Srinivasan [hereinafter referred to as the 'settler'] for the benefit of his family members. During the relevant year, the assessee-Trust had received shares worth Rs.15,78,40,400/- by way of contribution from the settler. The assessee had treated this receipt of assets not to be taxable by virtue of the exception set out in Section 56(2)(x) of the Income Tax Act 1961 (herein after 'the Act'). The

assessee had derived dividend of Rs.5900/- from these shares, which was declared by way of income in the return of income filed for the relevant AY 2022-23. The case of the assessee was selected for scrutiny by issue of notice u/s 143(2) of the Act dated 01.06.2023. The AO, in the course of assessment, took note of the shares received by the assessee-Trust by way of contribution from the settler and thereafter issued a show cause notice dated 27.02.2024 proposing to add the receipt of such assets by way of income from '*other sources'* u/s 56(2)(x) of the Act. The assessee in its response pointed out that the impugned receipt of property fell under the exception set out in clause (X) of proviso to Section 56(2)(x) of the Act, according to which, the said clause does not apply to any property received from an individual by a Trust which is created or established solely for the benefit of the relative of the individual. The AO noted that, though, the beneficiaries of the trust, as defined in Clause 5 of the trust-deed, comprised of the relatives of the settler, but, Clause 5.2 of the trust deed also permitted (a) the settler himself to be a beneficiary and (b) empowered the trust to add any entity as a beneficiary which is majority owned or controlled, directly or indirectly, either individually or collectively, by the relatives of the settler. The AO therefore was of the view that, the assessee-Trust could not be said to have been created for the exclusive benefit of the relatives of the settler as the trust-deed permitted the trust to add any entity as a beneficiary, which is majority owned/controlled by the relatives and therefore, it would mean that a minority benefit could possibly accrue to any person who is not a relative of the settler. With these observations, the AO held that the assessee was not entitled to the exception laid down in Clause (X) of proviso to Section 56(2)(x) of the Act and therefore added the aggregate value of shares worth Rs.15,78,40,401/- by way of income under the head '*other sources*'.

4.1 Being aggrieved by the above order of the AO, the assessee carried the matter in appeal, before the Ld. CIT(A). Before the Ld. CIT(A), the assessee had *inter alia* argued that, the AO had failed to take cognizance of the supplemental-deed to the original Trust-deed executed on 01.09.2021, which had since deleted and replaced Clause 5.2 of the original Trust-deed. The assessee pointed out that, as per the substituted clause 5.2, the trustees were empowered to only remove the beneficiaries by way of written resolution from the benefits of the Trust and the removal of Class B Beneficiaries would require prior consent of the son of the settler, who was one of the Class A Beneficiaries. It was therefore the assessee's case that, the beneficiaries of the trust comprised only of the relatives of the settler and that the trustees had no power to add any non-relative members or create any minority benefits qua any non-relatives. According to the assessee therefore, the AO had wrongly relied on the erstwhile Clause 5.2 of the original-deed to justify the impugned addition, which had since been deleted and replaced by the supplemental-deed with effect from 01.09.2021. The assessee thus claimed before the Ld. CIT(A) that, the assessee-Trust was exclusively for the benefit of relatives of settler and thus the receipt of property [*shares, in this case*] was exempt from tax by virtue of clause (X) of proviso to Section 56(2)(x) of the Act. It is observed that, the Ld. CIT(A) had taken note of the original Trust-deed as well as the amended Trust-deed, but he was of the view that, the amendment of Clause 5.2 of the original Trust-deed was not valid. The Ld. CIT(A) referred to Clause 8.1.2 of the Trust-deed, in terms of which, amendment could have been made only to certain clauses of the deed. The Ld. CIT(A) observed that, Clause 8.1.2(b) inter alia provided that, no amendment to the Trust-deed could be made which would affect the power of disposition over the Trust property or changing the objects of the Trust. The Ld. CIT(A) was therefore of the view that,

the amendment to Clause 5.2 was not legally permitted in terms of the Clause 8.1.2(b) of the Trust-deed. The Ld. CIT(A) thus held that, Clause 5.2 of the original trust deed continued to hold field, by virtue of which, the beneficiaries of the trust could not only be relatives but also entities in which they have majority stake, thereby creating a possibility of minority interest in the Trust of other persons who are not relatives. The Ld. CIT(A) accordingly concurred with the AO that the assessee-Trust was not meant to be exclusively for the benefit of the relatives of the settler and thus upheld the AO's order denying the benefit of exemption laid down in clause (X) of proviso to Section 56(2)(x) of the Act. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before us.

4.2 Assailing the action of the lower authorities, the Ld. AR argued that the AO had erroneously relied upon Clause 5.2 of the original-Trust-deed to justify the impugned addition in as much as the AO had failed to appreciate that the supplemental-deed dated 03.03.2022 which was effective from 01.09.2021 had substituted Clause 5.2 and the substituted clause did not provide for addition of any new entity which was majority controlled by the relatives of the settler. Referring to the substituted Clause 5.2, the Ld. AR argued that, the benefits of the assessee-Trust exclusively accrued only to the relatives of the settler and therefore it was rightly entitled to the exemption set out in clause (X) of proviso to Section 56(2)(x) of the Act. The Ld. AR further contended that the Ld. CIT(A) had erred in holding that the Clause 5.2 of the original-Trust-deed could not have been amended due to the non-obstante Clause 8.1.2(b) of the original-Trust-deed. The Ld. AR took us through the terms of Clause 8.1.2(b) and submitted that, the amendment to Clause 5.2 did not fall within any of the restrictions specified in clause 8.1.2(b) of the Trust-deed and therefore the substituted clause 5.2 was legally valid.

4.3 The Ld. AR further submitted that, a con-joint reading of the preamble and Clause 5 of the original-Trust-deed clearly establishes that the Trust was created solely for the benefits of the relatives of the settler. The Ld. AR invited our attention to Clause 4 of the Trust-deed titled '*Objects of the Trust'* which provided that the Trust is created for the sole benefit of the beneficiaries, which in the instant case, was the relatives of the Trustee. The Ld. AR thus argued that, the lower authorities had made the impugned addition by assuming a hypothetical scenario that minority benefits could have accrued to any person who was not a relative of the settler. The Ld. AR showed us that no such entities were ever added as beneficiaries of the assessee-Trust from its inception till date. He therefore submitted that, when the beneficiaries who was actually in existence during the relevant year solely comprised of the relatives of the settler, the lower authorities could not have denied the benefit of exemption set out in clause (X) of proviso to Section 56(2)(x) of the Act. The Ld. AR in this regard referred to the decision of the Hon'ble Supreme Court in the case of **CIT v. Trustees of H.E.H. Nizam's Family (Remainder Wealth) Trust (108 ITR 555 SC)**.

4.4 Per contra, the Ld. DR for the Revenue vehemently supported the orders of the lower authorities. He emphasized on Clause 5.2 of the original-Trust-deed and submitted that the Trustees enjoyed the discretion to later on add majority controlled/owned entities of the relatives, pursuant to which, minority benefits could possibly accrue to non-relatives. According to him therefore, the terms of the original-Trust-deed suggested that the Trust was meant to be both for relatives as well as non-relatives of the settler and thus, the lower authorities had rightly taxed the receipt of property without consideration, by the assessee-Trust

u/s 56(2)(x) of the Act. He therefore urged us not to interfere with the findings of the lower authorities.

4.5 We have heard both the parties and perused the material before us. Before adverting to the facts relating to the impugned issue let us first take note of the relevant position of law. Section 56(2)(x)(c) of the Act provides that, where *'any person'* [assessee, in this case] receives *'any property'* [*shares, in this case*] without consideration, whose aggregate fair market value exceeds Rs.50,000/-, then the whole of the aggregate fair market value of such property is taxable as income under the head '*Income from Other Sources'*. The relevant provision reads as follows:-

> "56……
> (2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes, shall be chargeable to income-tax under the head "Income from other sources," namely:-
> ……
> (x)where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017,-
>
> (a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;
>
> (b) any immovable property,-
> ……
> (c) any property, other than immovable property,-
>
> (A) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;
>
> (B) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration :"

4.6 It is observed that the proviso to Section 56(2)(x)(c) of the Act contains exception to the above provision and it envisages situations to

which provisions of Section 56(2)(x) will not apply. The relevant clause of the proviso to Section 56(2)(x)(c), with which we are concerned in the present case, reads as under:-

> "Provided that this clause shall not apply to any sum of money or any property received-
> …..
> (X) from an individual by a trust created or established solely for the benefit of relative of the individual;"

4.7 Reading of the above, shows that, where any property [*shares, in this case*] is received from an individual [*settler, in this case*], by a Trust [*assessee, in this case*] which is created or established solely for the benefit of relative of such individual, then the provision of Section 56(2)(x) will have no application and hence, such receipt of property by the Trust will not be liable to income-tax. The language employed in clause (X) of proviso to Section 56(2)(x)(c) of the Act is abundantly clear that the benefit of exemption is available only to those Trusts, which is established **solely** for the benefit of relative of the individual. The term 'relative' as defined in Explanation (e) to Section 56(2)(vii)which reads as follows:

> "(e) "relative" means,-
>
> (i) in case of an individual-
>
> (A) spouse of the individual;
>
> (B) brother or sister of the individual;
>
> (C) brother or sister of the spouse of the individual;
>
> (D) brother or sister of either of the parents of the individual;
>
> (E) any lineal ascendant or descendant of the individual;
>
> (F) any lineal ascendant or descendant of the spouse of the individual;

(G) spouse of the person referred to in items (B) to (F); and"

4.8 In view of the above, the ordinary rule is that, where any assessee trust receives any property from any person, the same is taxable under the Act. However only if the *'person'* giving the property is an *'individual'* and the trust is created or established *solely* for the benefit of the *'relatives'* of such *'individual'* viz., all the beneficiaries of the trust qualifies as *'relative'* of such *'individual'* parting with the property, in terms of Explanation (e) to Section 56(2)(vii); that such receipt of property by the trust will not be taxable u/s 56(2)(x) of the Act. Having taken note of this position of law, we now revert back to the facts of the present case. It is not in dispute that, the settler contributing the property is an individual and that the assessee in receipt of the property is a valid Trust. The question before us in the present case is whether the assessee-Trust was created or established solely for the benefit of the relatives of the individual i.e. the settler. In order to adjudicate this issue, let us first have a look at the relevant Clause 5 of the original-Trust-deed containing the details of the beneficiaries of the assessee trust, which reads as under:-

"5 BENEFICIARIES

5.1 The Beneficiaries, which are divided into 2 (two) classes, viz., Class A and Class B, are as follows:

<table>
<tr><th>Sr no</th><th>Class A Beneficiary</th><th>Sr no</th><th>Class B Beneficiary</th></tr>
<tr><td>(i)</td><td>Mr Venu Srinivasan, aged about 68 years, presently residing at West Side House, Old No 2 New No 3, Adyar Club Gate Road, Raja Annamalaipuram, Chennai – 600 028 ("Mr Venu");</td><td>(i)</td><td>Dr Lakshmi Venu, daughter of Settler ("Dr Lakshmi");</td></tr>
<tr><td colspan="2" rowspan="3">[This space is intentionally left blank]</td><td>(ii)</td><td>Mr Sudarshan Venu, son of Settler ("Mr Sudarshan");</td></tr>
<tr><td>(iii)</td><td>Descendants of Dr Lakshmi;</td></tr>
<tr><td>(iv)</td><td>Descendants of Mr Sudarshan;</td></tr>
</table>

Persons belonging to Class A of the Beneficiaries list shall only be eligible to receive Trust Income (in accordance with Clause 9 of this Deed [Distributions]). Persons belonging to Class B Beneficiaries list shall be eligible to receive Trust Property (in accordance with Clause 9 of this Deed [Distributions]).

5.2 The Trustee(s) may add any:

5.2.1 member of the Family; or
5.2.2 trust settled for the benefit of the Family or any member of the Family; or
5.2.3 entity, which is majority owned and/or controlled, directly or indirectly, either individually or collectively (two or more) by below-mentioned Person/s:
(a) Mr Venu;
(b) Dr Lakshmi;
(c) Mr Sudarshan; and/or
(d) the Trust,
as a Beneficiary or re-classify from one class of Beneficiary to another, and/or remove any Person as a Beneficiary. In the context of removal of Beneficiaries, the Trustee(s) may remove any Beneficiary from the class of the Trust with or without making any Distributions of Trust Property (subject to Clause 9 of this Deed [Distributions]) to such removed Beneficiary."

4.9 Perusal of the above reveals that, the beneficiaries of the assessee-Trust comprised of the settler himself, his daughter, his son and the descendants of his son & daughter. It is not in dispute that, the list of beneficiaries comprised of the contributor and his relatives, all of whom fell within the meaning of Explanation (e) to Section 56(2)(vii) of the Act. The issue-in-dispute is Clause 5.2 of the original-Trust-deed. It is seen that Clause 5.2.1 permitted the Trustees to add any member of the settler's family. This clause, if acted upon, would result in addition of members of settler's family as beneficiaries of the Trust, who understandably would qualify as relative within the meaning of Explanation (e) to Section 56(2)(vii) of the Act. Clause 5.2.2 further empowers the Trustees to add any trust settled for the benefit of the family or any member of the family and Clause 5.2.3 permits the Trustees to add entities as well, which are majority owned/controlled, directly or indirectly, either individually or collectively by the beneficiaries of the Trust. The lower authorities are noted to have observed that, by virtue of

these clauses, the trustees enjoyed power to add entities where though the relatives of the settler would own the majority, but as a consequence, the minority of such entities, who are non-relatives, would also become entitled to benefit(s) from the assessee-Trust. As such, this discretion given to the trustees in Clause 5.2 of the original-Trust-deed suggested that, non-relatives could be later on added to the benefits of the assessee-Trust and therefore it cannot be said that the assessee-Trust was created or established solely for the benefit of relatives of the individual. We however find that, Clause 5.2 of the original-Trust-deed relied upon by the lower authorities had been substituted and replaced by the supplemental-Trust-deed executed on 03.03.2022 which was effective from the date of inception of the Trust, and the same read as under:-

> "The Trustee(s) may remove any Beneficiary by way of a written resolution of the Trustee(s), from the benefits of the Trust with or without making any Distributions of the Trust Property (subject to Clause 9 of this Deed (Trust Property and Distributions)) to such removed Beneficiary. Provided that any Class B Beneficiary(ies) can be removed only with prior written consent of Mr Sudarshan"

4.10 We find that, the AO had omitted to consider the above substituted Clause 5.2 of the amended trust deed and erroneously relied on Clause 5.2 of the original trust deed, which had been deleted since the inception of the assessee-Trust. The Ld. CIT(A) however did take cognizance of the above substituted clause but held such substitution to be invalid due to violation of Clause 8.1.2(b) of the original trust deed, which read as under:-

> "(b) <u>Power to make Amendments</u>
>
> The Original Trustee 1 (and the immediate successor to his office) may at any time amend or modify or supplement the terms of the Deed, by way of a written instrument. All the Trustee(s) of the trust at the time of making the amendment shall be mandated to sign such written instrument.

> In case the Original Trustee 1 (and the immediate successor to his office) ceases to be a Trustee of this Trust, then the Trustee(s) may amend or modify or supplement the terms of the Deed, by way of a written instrument duly signed by the Trustee(s).
>
> Notwithstanding anything herein contained, no amendment shall be effected to this deed, which directly or indirectly results in or amounts to the Settler regaining the power over the Trust property or power of disposition over the Trust property or changing the objects of the Trust."

4.11 Having perused the above Clause 8.1.2(b) of the original trust deed, we find that the above provision in fact supports the case of the assessee. The said clause expressively permits the Trustees to amend any of the terms of the deed and the only restriction is that the amendment must not result in, (a) the settler regaining power over the trust property,(b) power of disposition of trust property or (c) altering the objects of the trust. We find that, Clause 5.2 of the original trust deed as well as the substituted clause of the amended deed does not fall within the ken of the restrictions set out in Clause 8.1.2(b) of the trust deed. The amendment is also found to be in alignment with the objects of the trust as it was intended to reinforce the objects viz., the assessee trust so created is meant for the benefit of the family members of the settler. We find that, the substituted Clause 5.2 did not vest any power back with the settler, nor did it confer any right to dispose off the trust property, nor did it result in alterations of the object of the Trust. The Ld. CIT(A) is held to have erred in holding that, the change in beneficiaries was not permitted in Clause 8.1.2(b) of the Trust-deed, when as noted in the foregoing, no such restrictive covenant is contained in Clause 8.1.2(b) barring amendment to the change in beneficiaries. Rather, we find that, the Clause 8.1.2(d) of the original trust deed already empowered the Trustees to add/remove any beneficiary from the benefits of this Trust. Hence, there is merit in the assessee's contention that the amendment made to

Clause 5.2 of the original trust deed was valid, as it was authorized by the said Clause 8.1.2(d) of the original trust deed. It was also brought to our notice that, Clause 8.1.2(d) was also amended by the supplemental deed dated 03.03.2022, which has not been disputed by the Ld. CIT(A). For the sake of convenience, the relevant extracts of the original and substituted Clause 8.1.2(d) of the trust deed, is reproduced below:-

> As per original trust deed
>
> "(d) Power to add or remove beneficiaries
>
> Subject to Clause 5 (Beneficiaries) of this deed, the Trustee(s) may add any Person as Beneficiary or remove any Beneficiary from the benefits of this trust."
>
> As per amended deed
>
> "(d) Power to re-classify or remove beneficiaries
>
> In accordance with Clause 5 (Beneficiaries) of this deed, the Trustee(s) may reclassify Beneficiaries or remove any Beneficiary from the benefits of this trust."

4.12 In view of our above findings therefore, the inescapable conclusion is that the Clause 5.2 of the original trust deed relied upon by the AO to justify the impugned addition had been deleted and substituted by the amendment deed dated 03.03.2022 applicable from 01.09.2021 and such amendment is found to have been validly made. It is held that, the interpretation accorded by the Ld. CIT(A) that, the substituted Clause 5.2, was not permitted under Clause 8.1.2 of the original deed, is held to lack any textual or legal foundation and is therefore set aside. For the sake of clarity therefore, in our view, the Clause 5 of the trust deed [original deed dated 01.09.2021 read with amended deed dated 03.03.2022] correctly reads as under:-

"5 BENEFICIARIES

5.1 The Beneficiaries, which are divided into 2 (two) classes, viz., Class A and Class B, are as follows:

Sr no	Class A Beneficiary	Sr no	Class B Beneficiary
(i)	Mr Venu Srinivasan, aged about 68 years, presently residing at West Side House, Old No 2 New No 3, Adyar Club Gate Road, Raja Annamalaipuram, Chennai – 600 028 ("Mr Venu");	(i)	Dr Lakshmi Venu, daughter of Settlor ("Dr Lakshmi");
[This space is intentionally left blank]		(ii)	Mr Sudarshan Venu, son of Settlor ("Mr Sudarshan");
		(iii)	Descendants of Dr Lakshmi;
		(iv)	Descendants of Mr Sudarshan;

Persons belonging to Class A of the Beneficiaries list shall only be eligible to receive Trust Income (in accordance with Clause 9 of this Deed [Distributions]). Persons belonging to Class B Beneficiaries list shall be eligible to receive Trust Property (in accordance with Clause 9 of this Deed [Distributions]).

5.2 The Trustee(s) may remove any Beneficiary by way of a written resolution of the Trustee(s), from the benefits of the Trust with or without making any Distributions of the Trust Property (subject to Clause 9 of this Deed (Trust Property and Distributions)) to such removed Beneficiary. Provided that any Class B Beneficiary(ies) can be removed only with prior written consent of Mr Sudarshan."

4.13 We thus observe that, the beneficiaries set out in the above Clause comprises solely of the relatives of the settlor. There is no provision in the above Clause or in any of the other terms of the trust deed, by virtue of which any minority benefits could possible accrue to any non-relatives of the settlor. Rather, the assessee trust is found to be established solely for the benefit of the relatives of the settlor. As a corollary therefore, we find that the foundational basis of the lower authorities for making the impugned addition stood vacated. The case of the assessee is therefore

found to be squarely covered by the exception set out in clause (X) of proviso to Section 56(2)(x)(c) of the Act, as the assessee trust is created only for the exclusive benefit of the relatives including the settlor himself. Accordingly, the addition of Rs.15,78,40,401/- made by the AO u/s 56(2)(x) of the Act is held to be unjustified and is accordingly directed to be deleted. Thus, Ground Nos. 3 to 8 stands allowed.

5. Ground No. 9 raised by the assessee is against addition of Rs.12,00,00,000/- made by the AO u/s 56(2)(x) of the Act, in relation to the advance tax payment. The facts brought to our notice is that, the assessee had filed the return of income for AY 2022-23 on 30.07.2022 declaring total income of Rs.5,900/- and claiming refund of Rs.12,00,00,000/-. The AO is noted to have required the assessee to explain as to why it had paid advance tax of Rs.12,00,00,000/- for the year under consideration. The assessee is noted to have submitted that, the settlor had erroneously paid the advance tax in the PAN of the assessee trust, which came to notice only at the time when the assessee was filing the return of income. With a view to avoid any confusion or further omission, the assessee trust had passed journal entries reflecting the advance tax paid under its PAN as sum repayable back to the settlor and thus it had claimed refund of the same in the income tax return filed for AY 2022-23. The AO however, disbelieved this explanation by observing that, the assessee could have approached the AO for challan correction rather than claiming refund. The AO further observed that, this amount was not reflected by way of liability due to the settlor, as on 31.03.2022. The AO thus concluded that, the settlor had parted with this amount to the assessee trust and there was no liability for the trust towards the settlor. Since the AO had already held that the assessee was not eligible for the exemption set out in clause (X) of proviso to Section

56(2)(x)(c) of the Act, the AO added the impugned sum being amount received for NIL consideration, by way of '*Income from Other sources'* u/s 56(2)(x) of the Act. Aggrieved by the AOs order, the assessee carried the matter in appeal and the Ld. CIT(A) was pleased to confirm the addition. Being aggrieved, the assessee is in appeal before us.

5.1 The Ld. AR has assailed the impugned addition on several fronts. Firstly, he submitted that, the impugned advance tax paid by the settlor constituted a loan and not a contribution, which was duly accounted for in the subsequent FY 2022-23 and thus this liability towards the settlor could not be added as '*income from other sources'*. To support his claim, the Ld. AR showed us that the assessee had since repaid portion of the loan to the extent of Rs.10.11 crores and the balance of Rs.1.88 crores remained as admitted liability in its books. The Ld. AR further submitted that, the lower authorities had attempted to justify the addition on extraneous considerations. He submitted that, their observations that the assessee trust or the settlor should have pursued PAN correction procedure instead of claiming refund bore no relevance to warrant to the impugned addition. According to him, only because the assessee failed to adopt the correction mechanism cannot be justifiable reason to add the advance tax erroneously deposited in its PAN as its taxable income. The Ld. AR lastly submitted, without prejudice that, since the assessee trust was created solely for the benefit of the relatives of the settlor, the impugned amount paid by the settlor in the PAN of the trust is covered by the exception set out in Clause (X) of proviso to Section 56(2)(x)(c) of the Act. Per contra, the Ld. DR vehemently supported the order of the lower authorities and contended that the arguments of the assessee was an after-thought.

5.2 Heard both the parties. From the material placed before us, it is observed that an advance tax of Rs.12 crores had been deposited by the settlor in the PAN of the assessee-Trust for the relevant AY 2022-23. It is seen that, no entries in respect of this transaction was passed by the assessee-Trust in their books of accounts for the year ending 31.03.2022. The assessee is noted to have, later on claimed the refund of this advance-tax in the return of income filed for AY 2022-23 on 30.07.2022. The fact that, there were no entries passed in relation to this advance-tax payment *[not even by way of contribution from settlor, as alleged by the AO]*, in the books of accounts for the year ended 31.03.2022, does lend credence to the assessee's explanation that, it was unaware about the impugned advance tax erroneously deposited by the settlor in their PAN until the year-end and that it was discovered only later on at the time of filing of return of income. It is observed that, when this error was discovered, the assessee and the settlor had mutually decided that, the assessee would claim refund of this amount erroneously deposited in its PAN and refund the same back to the settlor. We find that, necessary entries were also passed in the books of accounts in FY 2022-23, when the return of income was filed. It is seen that, the assessee had not only recognized the advance-tax by way of asset, but it had correspondingly recognized equivalent liability of Rs.12 crores payable to the settlor. The facts brought on record shows that, the assessee had also repaid the admitted liability to the extent of Rs.10.11 crores back to the settlor and the balance was reflected as liability due to him. Having regard to the foregoing facts put forth before us, we are unable to countenance the order of the lower authorities dismissing the explanation of the assessee as an after-thought. It is very much possible under the given facts and circumstances that, such error could have occurred, which would have been discovered only at the time of filling of the returns of income and for

that reason, no entries were found recorded in the books of accounts of the assessee in FY 2021-22.The absence of entries in FY 2021-22 reinforces the assessee's assertion that this was indeed an error which came to light in the subsequent year, for which necessary entries relating to this prior period adjustment was passed by the assessee-Trust. According to us, the explanation of the assessee is justifiable on the given facts before us. We also agree with the Ld. AR that, only because the settler/assessee-Trust did not opt for challan correction mechanism but chose to claim refund of the same, cannot be a valid reason to substantiate the impugned addition. According to us, the advance-tax amount of Rs.12 crores constituted a liability towards the settler *[who had erroneously deposited the sum in assessee's PAN]* and not a contribution from him, and therefore the provisions of Section 56(2)(x) had no application in this context. The impugned liability of Rs.12 crores cannot be regarded as *'any sum of money'* received without consideration. Rather, the facts clearly show that the impugned sum was a repayable liability and hence no income accrued to the assessee in this regard. For the aforesaid reasons, we hold that the addition of Rs.12 crores made by the AO lacked any merit and is therefore held to be unsustainable. We direct the AO to delete the impugned addition and accordingly allow this ground of appeal.

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

Order pronounced on the 28th day of January, 2026, in Chennai.

Sd/-	**Sd/-**
(एस. आर. रघुनाथा)	**(एबी टी. वर्की)**
(S.R.RAGHUNATHA)	**(ABY T. VARKEY)**
लेखा सदस्य**/ACCOUNTANT MEMBER**	न्यायिक सदस्य**/JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 28th January, 2026.
TLN

आदेश की प्रतिलिपि अग्रेषित**/Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF