

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

**BEFORE : SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 245 & 246/AGR/2017
Assessment Year : 2012-13**

ITO-Exemption, Agra.	V	M/s. Hardayal Charitable and Educational Trust, 318, -Shambhu Nagar, Shikohabad
PAN : AAATH7652M		
(Appellant)		(Respondent)

Assessee by	None
Department by	Shri Anil Kumar, Sr. DR

Date of hearing	16/02/2026
Date of pronouncement	16/02/2026

ORDER

PER SUNIL KUMAR SINGH, JUDICIAL MEMBER

Both these appeals have been preferred by the revenue against the impugned orders each dated 28.02.2017 passed in appeal No. 67/CIT(A)-2/Agra/ITO(Exemption)/Agra/2015-16 & appeal No. 122/CIT(A)-2/Agra/ITO-(Exemption)/Agra/2015-16 by Ld. CIT(A)-2, Agra respectively. [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2012-13 each, wherein learned CIT(A) has allowed assessee's appeals.

2. The facts and issues related to the appeals under consideration are almost similar, hence, both the appeals are being decided by this common order.

ITA NO. 245/AGR/2017

3. Briefly stating, assessee filed the return of Income at Rs. Nil (Net deficit as per income and expenditure account of Rs. (-) 1,75,19,408/- an amount of Rs. 2,30,00,000/- was added by AO u/s 68 of the Act, vide assessment order dated 18.03.2015 u/s 143/148 of the Act, and assessed the taxable income of Rs. 54,80,590/- (Rs.2,30,00,000/- - Rs.1,75,19,408/-, which was deleted by the Ld. CIT(A)-2, Agra vide order dated 28.02.2017. The appeal filed by the revenue against the order of the Ld. CIT(A) was dismissed vide order dated 28.08.2018 passed by the Tribunal in ITA No. 245 & 246/Agr/2017 on low tax effect (not exceeding 20 lacs). On revenue's misc. application no. 06/Agr/2019, this Tribunal, vide order dated 30.06.2025, allowed revenue misc. application, holding the tax effect on the addition of Rs. 2,30,00,000/- as Rs. 71,70,000/-. Hence, the revival of revenue's appeal.

4. Appellant revenue has preferred this appeal on the ground that Ld. CIT(A) has erred in allowing the said exemption u/s 11 of the Act, in respect of unexplained unsecured loans, ignoring the fact that once unsecured loans are held as bogus/fictitious/unexplained cash credit u/s 68 of the Act, assessee was not entitled for the said exemption, which was neither claimed in the return nor during the assessment proceedings.

5. Appellant revenue is represented by the Ld. Sr. DR. None responded for the respondent assessee. Perused records and heard Ld. DR for the appellant revenue.

6. The main point for determination under appeal is as to whether Ld. CIT(A) has erred in allowing assessee, the benefit of exemption u/s 11 of the Act by deleting the additions made by Assessing officer?

7. We note that Tribunal, vide order dated 28.08.2018, dismissed assessee's appeal on low tax effect i.e. not exceeding 20 lacs. However, on revenue's misc. application, the tax effect on the addition of Rs. 2,30,00,000/- was found to be Rs. 71,70,000/- by this Tribunal, vide its order dated 30.06.2025 passed in M.A. No. 06/Agr/2019. The revenue's appeal, thus, deserves to be disposed off on merit.

8. We notice that Ld. CIT(A) has deleted the said addition of Rs. 2,30,00,000/- on the ground that the appellant trust continues to enjoy the

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registration and benefit of exemption u/s 12A and section 11 of the Act, by
holding that the assessee was entitled for the exemption on income determined

u/s 68 of the Act. Revenue has vehemently argued that exemption u/s 11 cannot be allowed on a different head as unexplained/unsecured loans taxed u/s 68 cannot be pegged to any other head of income including income from other sources u/s 56 of the Act. Revenue has further argued that the said exemption cannot be allowed as the said unsecured loans were held as bogus /fictitious and unexplained cash credits. It transpires from the perusal of the impugned order, that the first appellate authority has not specifically dealt with the issue of bogus purchases. In such circumstances and for want of explanation/submissions on behalf of the assessee, we are not inclined to sustain the conclusion arrived at by the first appellate authority. The aforesaid point is accordingly determined in positive in favor of the revenue and against the respondent assessee. The revenue's appeal is liable to be allowed.

ITA NO. 246/AGR/2017

9. The facts and issue involved in this appeal is similar to that of ITA No. 245/Agr/2017. Our finding arrived at in ITA No. 245/Agr/2017 shall mutatis mutandis apply to this appeal also. This revenue's appeal also deserve to be allowed.

10. In the result, both the revenue appeals ITA No. 245 & 246/Agr/2017 are allowed.

Order pronounced in the open court on 16.02.2026

Sd-

**(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Dated: 16.02.2026

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd-

**(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Asst. Registrar,