

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**“D” BENCH, MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, (JUDICIAL MEMBER) &  
SHRI PRABHASH SHANKAR, (ACCOUNTANT MEMBER)**

**I.T.A. Nos. 3922/MUM/2025**

**Assessment Year: 2015-16**

DCIT, CC7(1) Room No. 653, 6 <sup>th</sup> Floor, MK Road, Churchgate, Mumbai.	Vs.	Dr. DY Patil Educational Academy Patil Bldg, Adarsh Nagar Opp MIG Colony, Worli, Mumbai – 400018. <b>PAN – AAHCA0551C</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Aakash Kumar (Virtually Present)
<b>Respondent by</b>	Shri Umashankar Prasad, CIT

<b>Date of Hearing</b>	17.12.2025
<b>Date of Pronouncement</b>	10.02.2026

**ORDER**

**Per: SHRI. SANDEEP GOSAIN, J.M.:**

The present appeal has been filed by the revenue challenging the impugned order dated 26.03.2025, passed u/s. 250 of the Income Tax Act, 1961 ('the Act'), by the learned National Faceless Appeal Centre, Delhi, ('NFAC'), for the assessment year 2015-16. The grounds of appeal are as under:

1. *“On facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made under Section 68 of 1 the I.T. Act, 1961, ignoring the corroborative evidences and statements establishing the non-genuine nature of corpus donations*

*2. On facts and circumstances of the case and in law, the Ld. CIT(A) failed to appreciate the clear nexus between the donations received and admissions granted by DY Patil Group institutes, as evident from seized material and statements recorded under oath*

*3. The appellant craves leave to add to alter, amend, modify and /OR DELETE any OR all of the above said grounds of appeal. The appellant reserves its right to file further submission in the appeal.*

2. All the grounds raised by the revenue are interrelated and interconnected and relates to challenging the order of Ld. CIT(A) in deleting the additions made u/s 68 of the Act. Therefore, we have decided to adjudicate these grounds through the present consolidated order.

3. We have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records, we noticed that in this case assessment proceedings were completed u/s. 153C r.w.s.143(3) of the act, thereby assessing the total income at Rs. NIL. Thereafter a search/survey action u/s. 132/133A of the Income Tax Act, 1961 was carried out on 09.01.2018 in case of M/s Anandilal & Ganesh Podar Society, M/s Podar Education Trust, M/s Podar Education & Sports Trust and other related group entities (together referred to as Podar group). Based on the findings of the search action, the case of the assessee was reopened u/s 147 of the Act and the assessment was completed after making addition of Rs 2,00,00,000/- u/s 68 of the Act.

4. In this regard Ld. DR submitted that A search/survey action u/s. 132/133A of the Income Tax Act, 1961 was carried out on 09.01.2018 in case of M/s Anandilal& Ganesh Podar Society, M/s Podar Education Trust, M/s Podar Education & Sports Trust and other other related relate group entities (together referred to as Podar group). Modus operandi followed by Podar Group for evading tax was that Trusts belonging to Podar group (M/s Podar Education & Sports Trust) gave bogus donations to other Trusts. These other trusts in turn returned back cash to Podar group after deducting their commission which was then introduced into various entities of Podar Group by layering through maze of dubious companies and bogus transactions with the help of known entry providers. During the course of search/survey action on Podar Group, statements of various key persons were recorded and various evidences were gathered. Block Assessment for A.Y 2012-13 to AY 2018-19 had been completed in Podar group wherein certain donations given by M/s Anandilal& Ganesh Podar Society, M/s Podar Education Trust and M/s Podar Education & Sports Trust to various donee trusts have been held to be bogus and not for the objects of the Trust. It is further seen that D.Y.Patil Educational Academy had received bogus donations from Podar group of trusts i.e. M/s Anandilal& Ganesh Podar Society, in F.Y. 2014-15 relevant to assessment year 2015-16. Bogus donation given by Anandilal & Ganesh Podar Society to Dr. D.Y Patil Educational Academy, PAN- AATD7470M,

amounting to Rs. 2 crore which was treated as non-genuine.

5. Whereas Ld. AR appearing on behalf of the assessee relied upon the orders passed by Ld. CIT(A) and reiterated the same arguments as were raised by him before the revenue authorities and the same are reproduced herein below:

*6. SUBMISSION OF THE APPELLANT:-*

*During the appellate proceeding, appellant has made following written submission:-*

*"1. Re Ground of appeal nos 1 and 2*

*Addition of Rs 2,00,00,000 under section 68*

*1.1. During the year under reference, the appellants have received corpus donation of Rs 2,00,00,000 from Anandilal & Ganesh Podar Society.*

*1.2. The Assessing Officer referred to the search proceedings in the case of Podar Group and held that the aforesaid donation of Rs 2,00,00,000 received by the appellants is bogus and accordingly, he treated the same as unexplained under section 68 of the Act.*

*1.3. The appellants submit that the reference to the search proceedings in the case of Podar Group is without any basis. There is nothing on record to show as to how the appellants are linked to any documents/ material found during the course of search. The Assessing Officer has drawn inferences only on account of the fact that the appellants have received donation of Rs 2,00,00,000 from Podar Group.*

*1.4. The appellants submit that the aforesaid corpus donation is supported by the following documents -*

*(a) Donation letter dated 26th June, 14 - refer page no 31 of the paper book*

*(b) Bank statement - refer page no 34 of the paper book*

*(c) PAN Card of Doner - refer page no 35 of the paper book*

*1.5. The aforesaid documents have been furnished to the Assessing Officer by letter dated 28.03.2022 - refer page nos 24 to 30 of the paper book @ page no 25. The Assessing Officer has completely ignored the said documents furnished by the appellants अथ २५५*

*1.6. Further, the amounts are received through banking channels and there is no have paid cash back to the Donor. evidence that the appellants have p*

*1.7. In view of the above, the appellants submit that there is no evidence on record to show that the corpus donation received by the appellants is bogus and hence, the addition of Rs 2,00,00,000 made by the Assessing Officer is bad in law and needs to be deleted.*

*1.8. The appellants further rely on their letter dated 28.03.2022 filed before the Assessing Officer - refer page nos 24 to 67 of the paper book.*

*1.9. It is further, submitted that the Honourable Tribunal at Mumbai, in the cases of Anadilal & Ganesh Podar Society (ITA no 713/Mum/2020 and others) and Podar Education Trusts (147 taxmann.com 60), has dealt with the issue of alleged bogus donations made by Podar Group and has decided the said issue in favour of the appellants therein.*

*1.10. In addition to the above, similar issue came up before the CIT(A) in the case of sister trust namely, Ramrao Adik Education Society wherein the CIT(A) by his order dated 30.01.2025 has decided the issue in favour of the appellants therein.*

*1.11. In view of the above, the appellants once again submit that the addition of Rs 2,00,00,000 made by the Assessing Officer is bad in law and needs to be deleted.*

*2. Re Ground of appeal no 3- Re-opening is bad in law*

*2.1 The appellants submit that all the details/documents in support of the corpus donation received have been submitted during the assessment proceedings under section 143(3) r.w.s. 153A.*

*2.2 The appellants thus, submit that the re-opening of the assessment on the same issue amounts to change of opinion, which is not permitted under section 147 of the Act.*

2.3 Further, please refer reasons recorded for re-opening of assessment - page nos 2 to 4 of the paper book. On perusal of the same, it can be seen that there is nothing on record to link the appellants to the alleged bogus donations made by Podar Group. The Assessing Officer has not even provided the materials on the basis of which the opinion has been formed.

2.4. The appellants submit that the re-opening of assessment to be successful has to be tested on the touchstone of 'reason to believe' on the basis of tangible material that income has escaped assessment. There should be a live link between the tangible material and the formation of belief on the basis of the reasons recorded that income has escaped assessment. The Assessing Officer has miserably failed in establishing that link inasmuch as he only mentions that the appellants have received corpus donation of Rs 2,00,00,000 from Podar Group, and the factum of search on Podar Group. The appellants submit that it is trite law that the reasons should be exhaustive and should mention as to how income has escaped assessment that is, there should be a nexus between the material received from extraneous sources and the formation of belief on the basis of the reasons recorded that income has escaped assessment, which, it is submitted, has not been done.

2.5. the reason to Merely on the basis of search on Podar Group, the Assessing Officer has re-opened the assessment of the appellants. The appellants submit that it is trite law th believe that income chargeable to tax has escaped assessment and the same is liable to be re-opened has to be viewed from the standpoint of the Assessing Officer. The least that the Assessing Officer could have done was to independently apply his mind to ascertain that the material/information received by him is sufficient and conclusive for drawing a reasonable inference that the income of the appellants has escaped assessment rather than recording reasons without application of mind.

2.6 In view of the above, the appellants contend that the re-opening of assessment is bad in law inasmuch as the reasons recorded are insufficient, vague and without application of mind and hence, the notice issued under section 148 is bad in law and consequently, the assessment order ought to be annulled.

3. Re Ground of appeal no 4 - Notice under section 143(2) not issued

3.1 The appellants submit that the Assessing Officer failed to issue a notice under section 143(2) of the Act.

3.2 It is submitted that issuance of notice under section 143(2) is mandatory to commence the assessment proceedings and hence, the impugned assessment proceedings, which have been commenced without an issue of notice under section 143(2) is bad in law and accordingly, the impugned assessment order is bad in law and needs to be quashed.

4. Re Ground of appeal no 5- Penalty proceedings under section 271(1)(c)

*This ground of appeal is consequential.*

5. Re Ground of appeal no 6- General

*This ground of appeal is general."CIT*

6. After having meticulously gone through the facts of the present case and documents placed on record including the judgments of the Coordinate Bench, we find that it is an undisputed fact that the addition in this case was based upon the search action on Podar Group, wherein it was found that the said group entities were involved in bogus donations.

7. We noticed that identical additions in the case of group concern i.e Ramrao Educational Society Ltd were deleted based on the decision of the Coordinate Bench of ITAT in the case of Podar Group in case titled **DCIT Vs. Anandilal & Ganesh Podar Society decided on 10.03.2023**, the relevant portion is reproduced herein below:

*14.1.4. The relevant extract of the order of Hon'ble ITAT, in the case of DCIT Cir 1(4), Mumbai vs Anandilal & Ganesh Podar Society dated 10 March, 2023 is reproduced as under-*

"10. We find that the Ld.CIT(A) had elaborately given his findings while granting relief to the assessee. It is not in dispute that the notices u/s.133(6) of the Act were indeed issued by the Assessing Officer to the donee trusts. The donee trusts to whom notices were issued duly replied in response to notices u/s 133(6) of the Act directly before the Assessing Officer confirming the fact of receipt of donations and also by enclosing the relevant documents sought by the Assessing Officer. Admittedly, the addition in the hands of the assessee had been made based on the survey statements recorded from the parties, which stood retracted subsequently. It is trite law that survey statement has no evidentiary value when it is not supported by any corroborative evidence found during survey. Moreover, the three parties who had retracted were again subject matter of cross examination before the Assessing Officer by the trustee of assessee trust, wherein all the parties reiterated what had been affirmed by them in the retraction affidavits. After this, no action has been taken by the Assessing Officer on the said parties who had retracted their statements and given a different version in the course of cross examination. We find that ITA NOS. 1791, 1790, 1792 & 1889/MUM/2021& Other appeals Anandilal and Ganesh Podar Society & other group concerns statements of Mr Kirit Kumar Suba, Mr Navin Nishar and Mr NK Sodhani were relied upon heavily by the Ed. DR and by the Assessing Officer. We find that all the three persons are outside chartered accountants. Further statement of Mr Jayesh Zanani, manager accounts in some group company of assessee was relied upon by the Assessing Officer. This person had stated that he had come to know the modus operandi from Mr Kirit Kumar Suba. When the original source of information is proved not reliable, naturally statement of Mr Jayesh Zanani also cannot be reliable. It is to be noted that all these parties retracted their statements as under: -

Mr Jayesh Zanani - 02.04.2018 Mr Kirit Kumar SUba - 03.04.2018  
Mr Navin Nishar - 04.06.2018 Mr NK Sodhani-30.08.2018

11. Hence at the time of issuance of notice u/s 153A of the Act on 16.08.2018, 3 persons out of 4 persons had already retracted their original statements. Subsequently during assessment proceedings, these persons were cross examined who confirmed the retraction statement. Moreover, none of the statement recorded by the Assessing Officer shows that there is any evidence with respect to the donation by assessee being bogus i.e the donation made by the assessee or any cash payment given by donee trust to any of the angadias. In these circumstances, we hold that there is no reason that original statements u/s 131 of the Act are to be kept at higher reliable pedestal than the retraction of the same by those persons

and further ITA NOS. 1791, 1790, 1792 & 1889/MUM/2021& Other appeals Anandilal and Ganesh Podar Society & other group concerns the retraction confirmed by them before the Assessing Officer in cross examination. Therefore, the onus shifts to the revenue to prove that the donation given by the assessee trust is bogus independent of these statements or its retractions.

12. Moreover, the Ld. CIT(A) had directed the Assessing Officer to make detailed examination on the documents submitted by the donee trusts with regard to alleged siphoning of funds and their exemption certificates granted by the department to the donee trusts. The Assessing Officer could have independently examined the confirmations given by the donee trusts by examining them in person in the manner known to law. In the instant case, the Assessing Officer had neither examined the trustees of Donee Trusts who alone would be able to state whether they have returned the donation amount in cash to the assessee. No such action has been carried out by the Assessing Officer in the instant case as per the materials available on record. Nothing prevented the Assessing Officer to forward the evidences gathered during the course of search and survey in assessee's group case together with the details furnished by the donee trusts, to the respective assessing officers of donee trusts for taking consequential action in the hands of the donee trusts. Admittedly, no such evidences have been placed on record by the revenue before us to prove whether any action has been taken at the end of donee trusts. There is absolutely no allegation on the part of the revenue with regard to the regular charitable activities carried out by the assessee trust, despite the conduct of search. All these facts collectively go to prove that the ITA NOS. 1791, 1790, 1792 & 1889/MUM/2021& Other appeals Anandilal and Ganesh Podar Society & other group concerns Assessing Officer had not made out any case for concluding that the donations given by the assessee trust to the various donee trusts have come back to the assessee in the form of cash or in the form of share capital or share premium in various companies belonging to the assessee group. Hence it could be safely concluded that there is no evidence available with the Assessing Officer to hold that the donations made by the assessee to donee trusts are not for educational purposes.

13. Accordingly, the grounds raised by the revenue for A.Y. 2011-12 are hereby dismissed.

14.1.5. Further, the relevant extract of the order of Hon'ble ITAT in the case of Podar Education Trust - 147taxman60 dated 28/9/2022 is as under

"27. On 9 January 2018, there was a search on Podar Group and statements of several persons were recorded under section 131 of the Act. In substance, all of them stated that funds have been diverted from the trust by further donation to other trust. Other trust in turn return cash to the Podar Group and then, such cash are converted into share capital or loan etc. in the group companies. Therefore, based on this, the learned Assessing Officer took a view that assessee has donated a sum of Rs. 1 crores to Ramrao Adik Education Society by cheque no. 188152 dated 28th June, 2011 of IDBI bank is a bogus donation. Therefore, on this sum, the learned Assessing Officer denied the exemption under section 10(23C) of the Act. Specific show cause notice was issued which was replied by the assessee. In reply, the assessee categorically submitted that the reliance placed by the learned Assessing Officer on the statement of Mr. Kiritkumar Suba, Mr. Navin Nishar and Mr. N.K. Sodhani under section 131 of the Act and Mr. Jayesh Zanani under section 132(4) of the Act is unwarranted. Assessee submitted that these are the chartered accountants namely Mr. Navin Nishar, Mr. N.K. Sodhani, Mr. Kirit Dharshibhai Suba is the Auditor of Podar Group and Mr. Jayesh Zanani is the Manager Accounts. Further, the statement of entry operator Mr. Shirish Shah was recorded and Mr. Dhirubhai Thakkar and Mr. Sureshbhai Thakkar of Dhara Angadia Services, Ahmadabad were recorded. Based on these statements, learned Assessing Officer has concluded that the donation of the assessee to Ramrao Adik Education Society is bogus. Assessee submitted that all these persons have retracted their statement by filing an affidavit on various dates. The assessee also sought an opportunity to cross-examine, wherein the cross-examination of these persons have confirmed their retracted statement. Thus, there is no evidence, which can be relied upon by the learned Assessing Officer on such retracted statement. The assessee also submitted that donation is made to Ramrao Adik Education Society. This trust is also registered under section 12AA of the Act and has been granted recognition under section 80G(5) of the Act. The donation receipt is produced along with the confirmation of receipt of donation. The donation is given by account payee cheque, this is also substantiated by the bank statement of IDBI bank. Enquiries under section 133(6) of the Act were made which has been replied by that trust. Therefore, addition is not required to be made. The learned Assessing Officer rejected all these contentions and denied exemption under section 10(23C) of the Act of the donation given by the assessee. The fact shows that in the assessment order the excess of income over expenditure of Rs. 3,57,00,000/- was considered as allowable deduction under section 10(23C) (via) of the Act. In fact, undisputedly, the assessee is engaged in educational activities is not denied. Therefore, only grievance is denial of exemption under

section 10(23C) of the Act with respect to donation of Rs. 1 crore and not considering the gratuity provision as application of income for educational purposes. No doubt, on identical facts and circumstances the addition made by the learned Assessing Officer for A.Y. 2011-12 wherein, donation of Rs. 50 lacs was an issue, deleted by the learned CIT (A). May be that order of the learned CIT (A) have not been challenged by the Revenue before higher forum because of low tax effect. However, that fact does not go either against the assessee or in favour of the assessee. However, the arguments and findings of the learned CIT (A) have been relied upon by the learned CIT (A) in this year to delete the addition. To state the fact that for A.Y. 2011-12, has also given donation of Rs. 50 lacs to Ramrao Adik Education Society. The finding of the learned CIT (A) in A.Y. 2011-12 has been extensively reproduced by the learned CIT (A) in this year. In A.Y. 2011-12, the learned CIT (A) relied on the plethora of judicial precedents along with the facts to delete the addition. In A.Y. 2011-12, the learned CIT (A) in assessee's own case followed the decision of learned CIT (A) in case of another trust Anandilal and Ganesh Podar society for A.Y. 2011-12 vide Para 12 of his order. The fact clearly shows that only evidence available with the learned Assessing Officer are statements of several persons recorded under section 131 of the Act which were subsequently retracted and in cross examination such retraction was confirmed.

28. We examine those statements.

i. Statement of Mr. Kiritkumar suba, CA, was recorded on 11 January 2018, which has been reproduced on page no. 6 of assessment order. Mr. Kiritkumar suba is a counsel wherein in question no. 14, he has stated that trust and societies of the Podar group donate amounts to various other trusts, such trust returned the cash. Further, Mr. Kiritkumar suba, Mr. N.K. Sodhani identifies to whom the donation is to be made and they earn commission. Cash is received by this person Mr. Kiritkumar suba and Mr. N.K. Sodhani and then, it was informed to Mr. Navin Nishar, who is also chartered accountant and the cash is collected from kantilal and it is delivered to person assigned by Mr. Navin Nishar. He further stated that Mr. Nishar makes the further arrangement. He submitted that he and Mr. Sodhani have done this for commission. He thereafter submitted that amount is then introduced as a share capital in various companies.

ii. The statement of Mr. Shri N.K. Sodhani was also recorded on 12 January 2018, he also gave a similar statement.

iii. The mobile phone of Mr. Navin Nishar was also seized where, one SMS exchange was found where there was an exchange of message along with Angadia.

Iv Statement of Mr. Navin Nishar was also recorded on 11 January 2018, wherein, he also confirmed his association with Mr. Kiritkumar suba and Mr. N.K. Sodhani and he stated that he work for commission

basis. He also confirmed that there is an SMS message between two Angadias and stated that same messages relates to Podar Group.

v. statement of Angadia was also recorded at Ahmadabad under section 131 of the Act who also v. confirmed that Mr. Navin Nishar and Mr. Kiritkumar Suba were the persons on behalf of whom they used to transfer money.

vi. Statement of Mr. Shirish Shah, who is alleged to be an entry operator, stated that in four companies he was to introduce share capital of Podar group.

vii. During search proceedings, statement of Mr. Jayesh Zanani was recorded under section 132(4) of the Act wherein the details of the companies were provided. However, with respect to the modus operandi, in response to question no. 36, he submitted that he has come know this modus operandi through Mr. Kiritkumar suba.

29. Therefore, the learned Assessing Officer reached the conclusion that statement of Mr. Jayesh Zanani has admitted that unaccounted money was generated in podar Group and same was rooted through sham companies.

30. The notice under section 133(6) of the Act was issued to the done trust i.e. Ramrao Adik Education Trust. Ultimately, reply was received from trust along with the evidence.

31. Further, it was contended before the learned Assessing Officer that all these persons Mr. Kiritkumar suba, Mr. Navin Nishar, Mr. N.K. Sodhani all are outside chartered accountants and them explaining the modus operandi of Podar group. Further, Mr. Jayesh Zanani, who was manager accounts in some group company, stated that he has come to know this modus operandi from Mr. Kiritkumar suba. It is to be noted that Mr. Kiritkumar suba retracted his statement on 3 April 2018. Mr. Navin Nishar retracted his statement on 4 June 2018 and Mr. Sodhani retracted his statement on 30 August 2018, Mr. Jayesh Zanani also retracted his statement on 2

April 2018. It is to be noted that at the time of issuance of notice under section 153A of the Act i.e. of 16 August 2018 all those persons who originally gave statement were mostly retracted. Subsequently, during the course of assessment proceedings, these persons were cross-examined, who confirmed the retraction of the statement. Therefore, now these statements do not have any evidentiary value.

32. Even otherwise, in none of the statement recorded by the learned Assessing Officer reproduced shows that there is any evidence with respect to the donation by assessee being bogus i.e. the donation of Rs. 1 crores made by the assessee to Ramrao Adik Education Society or any cash payment given by that trust to any of the Angadias कोष मल्लो दण्ड

33. learned Assessing Officer relied heavily on the statements of the chartered accounts, who held that donation given by the assessee has been applied for non-education purposes. In the statement of either Mr. Kiritkumar suba, Mr. Sodhani or Mr. Navin, no reference of any donation by assessee to Ramrao Adik Education Society was found. Therefore, these statements do not give any evidence against the assessee with respect to above donation.

34. The statement of Mr. Jayesh Zanani clearly states that the modus operandi has come to his knowledge only through this person i.e. Mr. Kiritkumar suba. When the original source of information is proved not reliable, naturally statement of Mr. Jayesh Zanani also cannot be held to be useful to Revenue.

35. There is no reason that original statement under section 131 of the Act, are to be kept at higher reliable pedestal than the retraction of the same by those persons and further, the retraction confirmed by them before the learned Assessing Officer in cross examination. Therefore, donation given by assessee trust needs to be proved bogus independent of these statement or its retractions.

36. Donation was made of Rs. 1 crore to Mr. Ramrao Adik Education Society by cheque no. 188152 of IDBI bank on 28th June, 2011 is supported by the certificate of recognition under section 80G of the Act issued on 16th August, 2010 by the Director general of Exemption, Mumbai. It is supported by receipt and confirmation along with bank statements, which clearly show that the cheque is issued and cleared in favour of the above trust.

37. This trust was also questioned under section 133(6) of the Act, which has been replied to the learned Assessing Officer. Further, the

*learned Assessing Officer did not make any further enquiry from above*

*done trust; therefore, there is no evidence available with the Assessing Officer that Ramrao Adik Education Society has in turn returned cash back to the Podar group.*

*38. The learned Assessing Officer neither examined the trustees of Donee trust nor the Donor assessee trust to ask for the purpose of such donation. It would have been only the trustees of Ramrao Adik Education Society to explain whether they have returned the donation amount in cash. There is no such effort made by the learned Assessing Officer.*

*39. Further, there is no enquiry in the activity of Ramrao Adik Education Society that in fact whether they are engaged in such activities or not. There is no evidence that Ramrao Adik Education Society is not carrying on educational activities but accepting the donation and returning the cash to the Donors.*

*40. The learned Departmental Representative did not show us any evidence that society which is allegedly returning the cash back to the assessee has at all been examined with respect to such activities.*

*41. Further, the statement of Angadia relied upon by the learned Assessing Officer also did not show any money collected from above done trust and given to assessee. In view of this, we held that there is no evidence available with the learned Assessing Officer to hold that donation made by the assessee to Ramrao Adik Education Society is not for educational purpose.*

*42. According to the provision of section 10(23C)(vi) of the Act, any University or any Educational Institutions solely existing for education purposes and not for purposes of profit will have its whole of the income exempt. The proviso to section 10(23C) of the Act provides that if an educational institute applies its income on other than objects of trust or for the purpose of profit, it may lose exemption. Admittedly Ramrao Adik Education Society is also an educational institute, therefore, donation to that society cannot be said to be utilized by assessee for non-educational purposes. This fact has not been denied by the learned Assessing Officer at any time. Thus, It is not the case of the assessee that Rs. 1 Crores given as a donation by the assessee is utilization of the fund for non-educational purposes.*

43. *Even otherwise, the disallowance under section 10(23C) of the Act, made by the learned Assessing Officer is pursuant to search dated 9 January 2018. The impugned assessment year before us is 2012- 13. Only evidence based on which the Id AO held that Rs. 1 Cr of Donation is not eligible for exemption u/s 10 (23C) of The Act are the statements of those persons. For this year, original assessment is already completed under section 143(3) of the Act on 27 March 2014 therefore, it clearly shows that impugned assessment is a concluded assessment at the time of search. Such retracted statement also cannot be said to be incriminating material found during the course of search, which can be used to enhance the income of assessee u/s 153A of the Act. Thus, there is no incriminating material existing pursuant to search, which could have disturbed the concluded assessment in case of the assessee. Therefore, even on this ground, the exemption under section 10(23C) of the Act, cannot be denied to the assessee. Accordingly, ground nos. 1 to 5 of the appeal of the learned Assessing Officer is dismissed and order of the learned CIT (A) is confirmed".*

14.1.6. *I have perused the orders of the Hon'ble ITAT, Mumbai in both the cases. The only basis for making addition of corpus donation in the hands of appellant Trust was the findings of the search action in the Podar Group. Now that the findings of the Department in the Podar Group have been overruled and the issue has been decided in the favour of the assessee, the corresponding addition made in the appellant group cannot be upheld.*

14.1.7. *The AO is directed to delete the addition of Rs 15,41,24,894/- made u/s 68 of the Act. The ground no 3 is allowed".*

8. Since the addition in the present case were based on search action and Coordinate Bench of ITAT had already decided the matter in favour of the assessee therefore corresponding additions made in this case were rightly deleted by Ld. CIT(A).

9. Even no new facts or circumstances have been placed on record before us in order to controvert or rebut the findings so recorded by Ld. CIT(A). Therefore, we see no reasons to interfere into or to deviate from the lawful

findings so recorded by Ld. CIT(A). Hence, the grounds raised and by the revenue stands dismissed.

10. In the result, the appeal filed by the revenue stands dismissed.

**Order pronounced in the open court on 10/02/2026**

**Sd/-  
(PRABHASH SHANKAR)  
ACCOUNTANT MEMBER**

**Sd/-  
(SANDEEP GOSAIN)  
JUDICIAL MEMBER**

Mumbai:  
Dated: 10/02/2026

*RKR, Sr. PS*  
Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)  
**ITAT, Mumbai**