

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

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 838/SRT/2025
(Assessment Year: 2018-19)

Abhyuththan Gram Vikas Mandal, Avdhut Krupa, Devjipura, Singpur Road, Songadh (Fort), Surat-394670 [PAN : AABTA 4656 R]	Vs.	Income Tax Officer (Exemption), Ward, Surat
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I.T.A. No. 902/SRT/2025
(Assessment Year: 2018-19)

Income Tax Officer (Exemption), Ward, Surat	Vs.	Abhyuththan Gram Vikas Mandal, Avdhut Krupa, Devjipura, Singpur Road, Songadh (Fort), Surat-394670 [PAN : AABTA 4656 R]
(Appellant)	..	(Respondent)
Assessee represented by:	Shri Suresh K. Kabra, CA	
Revenue represented by :	Shri Ajay Uke, Sr DR	
Date of Hearing	23.01.2026	
Date of Pronouncement	19.02.2026	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

These cross appeals are directed against the order dated 10.06.2025 passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ["Ld. CIT(A)"], under Section 250 of the Income-tax Act, 1961 ("the Act") for Assessment Year 2018-19. Since both appeals arise out of the same order, they are heard together and disposed of by this consolidated order.

2. The assessee has raised following grounds of appeal :-

"1. The Ld. CIT(A)-NFAC has erred and was not just and proper on the facts of the case and in law in not allowing the deduction / benefit u/s 11(1) considering the advance given to Trustee as violation of Section 13(1)(c) and 13(1)(d) of the Act.

2. The Ld. CIT(A)-NFAC has erred and was not just and proper on the facts of the case and in law in not adjudicating the Ground No.4 regarding treatment of the difference in receipts as per Form 26AS and the Books as income of the assessee trust, as income."

3. The Revenue has raised following grounds of appeal :-

"Whether on the facts and in circumstances of the case, Ld. CIT(A), NFAC is justified in deleting the addition of Rs.2,19,43,348/- made on account of short declaration of contractual receipts."

4. The brief facts of the case are that the assessee, a Public Charitable Trust registered with the State Charity Commissioner, undertook irrigation projects awarded by Sardar Sarovar Narmada Nigam Ltd. During assessment, the Assessing Officer treated the activities of the assessee as business u/s 2(15) and denied exemption u/s 11 of the Act. **The Assessing Officer invoked Sections 13(1)(c) and 13(1)(d) of the Act alleging interest-free advance of Rs. 9,00,000/- to trustee Shri Akash C. Mandaviya.** The Assessing Officer also added Rs. 2,19,43,348/- being difference between receipts shown in books (Rs. 24,70,47,617/-) and receipts as per Form 26AS (Rs. 26,89,90,965/-).

5. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A), after considering the submissions of the assessee and examining the material placed on record, granted partial relief. While the Ld. CIT(A) deleted the addition of Rs. 2,19,43,348/- made by the

Assessing Officer on account of alleged short declaration of contractual receipts, holding that the difference stood reconciled, he upheld the action of the Assessing Officer in invoking the provisions of Sections 13(1)(c) and 13(1)(d) of the Act in respect of the interest-free advance of Rs. 9,00,000/- given to the trustee, thereby sustaining the denial of exemption under Section 11 of the Act to that extent.

6. Aggrieved by the order of the Ld. CIT(A), both the assessee and the Revenue are in appeal before the Tribunal. The assessee is aggrieved by the action of the Ld. CIT(A) in sustaining the addition and upholding the denial of exemption, whereas the Revenue is aggrieved by the deletion of the addition made on account of alleged short declaration of contractual receipts.

7. We have heard the rival contentions and perused the material available on record. In this case, we find that, the Assessing Officer made addition of Rs.2,19,43,348/- being the difference between the receipts shown in the income and expenditure account and income received as per the TDS Certificate issued u/s 194C of the Act.

8. Before us, it was submitted that the difference is because of the fact that the turnover is shown without including the GST amount. The assessee has submitted the reconciliation before the Ld. CIT(A), and since the amounts have been reconciled, the Ld. CIT(A) rightly held that no addition is called for.

9. With regard to the interest payment, we find that the Assessing Officer found that the trustee of the trust namely Shri Akash C. Mandaviya has received loan of Rs.9,00,000/-. The assessee submitted that the same has been repaid in the subsequent year in April 2018. It was submitted that the trust has been receiving loans from the said trustee and no interest has been paid to him. Similarly, no interest has been charged.

10. We have gone through the entire affairs of the trust. The trust is registered with the State Charity Commissioner as a Public Charitable Trust and registered for 12A and approved for 80G under income-tax Act. The objects of the Trust are:-

- i. To run schools and hostels for the educational development of socio-economically backward classes with the grants of government-semi-government-voluntary organizations.
- ii. To create, run and maintain educational facilities from pre-primary education to secondary, higher secondary, PTC training and college.
- iii. To organize programs to create maximum irrigation facilities in agriculture, to undertake water recharge activities, to organize programs to irrigate more agriculture with less water and to organize farmer training classes, to provide understanding of drip irrigation system and to motivate maximum farmers to cultivate with water-efficient system with financial assistance from the Central and State Governments, for the development of socially and economically backward people in villages and to strengthen the rural economy animal husbandry and farming businesses,.
- iv. To establish and operate vocational educational training centers.
- v. To provide medical education, first aid and to arrange blood camps etc..
- vi. To organize competitions, elocution competitions, cleanliness, sports, service activities, and child culture centers among children.
- vii. To organize relief centers during natural disasters.
- viii. To establish cattle camps and build and run bird houses for the livelihood of animals deserving of compassion only.
- ix. To open and run institutions providing specialized services like women's shelters, old age homes, rehabilitation centers for the disabled, and orphanages, and to assist such institutions.

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- x. To organize activities by setting up health, education, home industries and other development works, keeping the overall development of women.
Etc....

10.1 The activities of the trust, as found from the record, were that it has received a contract from the Sardar Sarovar Narmada Nigam Limited for “*supplying, installing & testing of underground Pipeline System of sub-minor for irrigation through kundies in chak area for SSP command*” for Rs.7,78,49,047/- out of which work to the tune of Rs. 71381780/- has been executed (page no. 13 of the PB) as per Form No.3(A) of SSNNL signed by Executive Engineer, SBC Division No. 3/1, Botad. The Trust has not received any donations as per the record before us nor undertaken any act of general public utility or charitable in nature. Obtaining contract and executing the contract cannot be treated as a general public utility or charitable in nature, rather it can be treated as ‘business of contracts’. The assessee has received contract payments as well as TDS deducted u/s 194C of the Act leading credence to the fact that the assessee is in the work of executing contracts. Preservation of watersheds environment can be treated as general public utility, **but any entity obtaining a contract** for water works, drainage, or any other similar work cannot be treated as charitable work. The assessee-trust has obtained contract and executed the contract obtained from Govt. of Gujarat which is a business venture like any other contractor.

10.2 Further, the assessee-trust has incurred loss of Rs.55,73,916/- in the irrigation contract work and set off the amount against the income from interest on FDRs of Rs.61,81,344/-. The nature of operation is totally in tune with their operation of a commercial venture. For the sake of ready reference, the ledger of Akashbhai C. Madaviya in the books of the assessee-trust is reproduced hereunder:-

Abhyuththan Gram Vikas Mandal [Provisional]
Songadh
Tapi
Akashbhai C Mandaviya
Ledger Account

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1-Apr-17 to 31-Mar-19

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Date	Particulars	Narration	Vch Type	Vch No.	Debit	Credit
12-Apr-17	By BANK OF BARODA[00279]		Receipt	9		15,00,000.00
13-Apr-17	By State Bank India		Receipt	10		5,00,000.00
15-Apr-17	By BANK OF BARODA[00279]		Receipt	12		4,00,000.00
	By BANK OF BARODA[00279]		Receipt	13		4,00,000.00
10-May-17	By State Bank India		Receipt	20		25,00,000.00
17-May-17	By BANK OF BARODA[00279]		Receipt	23		25,00,000.00
8-Aug-17	To (as per details) 906852		Payment	231	5,00,000.00	
	Bank Charges	29.50 Dr				
	State Bank India	5,00,029.50 Cr				
	906852					
	To (as per details) 000367		Payment	233	15,00,000.00	
	Bank Charges	65.00 Dr				
	BANK OF BARODA[00279]	15,00,065.00 Cr				
	000367					
9-Aug-17	To (as per details) 000369		Payment	236	10,00,000.00	
	Bank Charges	65.00 Dr				
	BANK OF BARODA[00279]	10,00,065.00 Cr				
	000369					
28-Sep-17	By BANK OF BARODA[00279]		Receipt	79		18,00,000.00
	By BANK OF BARODA[00279]		Receipt	80		12,00,000.00
	By BANK OF BARODA[00279]		Receipt	81		48,00,000.00
3-Oct-17	To BANK OF BARODA[00279] 00451		Payment	314	28,00,000.00	
	00451					
	To BANK OF BARODA[00279] 00452		Payment	315	12,00,000.00	
	00452					
4-Oct-17	To BANK OF BARODA[00279] 00456		Payment	319	10,00,000.00	
	00456					
16-Oct-17	To BANK OF BARODA[00279] 000461		Payment	336	40,00,000.00	
	000461					
7-Dec-17	To (as per details) 00478		Payment	385	30,00,000.00	
	Bank Charges	60.00 Dr				
	BANK OF BARODA[00279]	30,00,060.00 Cr				
	00478					
29-Jan-18	To BANK OF BARODA[00279] 000495		Payment	413	15,00,000.00	
	000495					
	By Closing Balance					1,65,00,000.00
						1,58,00,000.00
						9,00,000.00
						1,65,00,000.00
						9,00,000.00
1-Apr-18	To Opening Balance					9,00,000.00
26-Apr-18	By Bank of Baroda [OD]		Receipt	15		9,00,000.00
5-Mar-19	By Bank of Baroda [OD]		Receipt	146		4,00,000.00
	Carried Over				9,00,000.00	13,00,000.00

continued ...

Abhyuththan Gram Vikas Mandal [Provisional]
Akashbhai C Mandaviya Ledger Account : 1-Apr-17 to 31-Mar-19

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Date	Particulars	Narration	Vch Type	Vch No.	Debit	Credit
	Brought Forward				9,00,000.00	13,00,000.00
13-Mar-19	To Bank of Baroda [OD] 000575		Payment	1053	4,00,000.00	
	000575					
					13,00,000.00	13,00,000.00

10.3 Further, we also found that amounts to the tune of Rs.78 lakhs have been received and paid on a running account basis from the person specified under Section 13(1) of the Act. Thus, the activities of the trust give no credence to the objects reckoned and are not in the nature of activities allowed u/s 2(15) of the Act. Though the assessee is claiming that the trust had carried out working of supplying water through pipelines and making pumping stations, it is found that the pipeline work is indeed a contract work obtained from Govt. of Gujarat. The supplying water through pipelines and making pumping station is not the charitable activity of the trust but performed as a work contract obtained from Govt. of Gujarat in the capacity of a contractor. The main income of the Trust is contract income received from Govt. of Gujarat. There is no work of charity involving carrying out the work contract obtained from the Govt. after tendering for the same. This clearly shows that the activity undertaken by the assessee-trust is not an Incidental Business, the profits of which can be exempt, whereas in this case the receipts are from civil contracts that cannot be exempt as the business is not incidental to the attainment of the trust's objectives and no separate books of account are maintained. The civil contract activity is not incidental to the main charitable objective but is instead a primary profit-making motive, the exemption cannot be accorded. A trustee can receive compensation only if it represents reasonable remuneration for services rendered, rather than profit-taking. Further, using trust funds for the personal benefit of a trustee is strictly prohibited and shall lead to the loss of tax exemptions u/s 11 and 12, with income taxed at the Maximum Marginal Rate. Section 13(3) prohibits directing income / property to specified persons, including trustees, founders, or managers. Funds used for the benefit of a trustee are to be taxed at the maximum marginal rate.

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10.4 In light of the foregoing facts and circumstances, we find no justification to interfere with the order passed by the Ld. CIT(A). Accordingly, the same is hereby upheld.

11. In the result, the appeal of the assessee and the Revenue, both are dismissed.

The order is pronounced in the open Court on 19.02.2026

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Ahmedabad; Dated 19/02/2026

btk

Sd/-

**(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / **The Appellant**
2. प्रत्यर्थी / **The Respondent.**
3. संबंधित आयकर आयुक्त / **Concerned CIT**
4. आयकर आयुक्त (अपील)/ **The CIT(A)-**
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण ,/DR,ITAT, Surat,
6. गार्ड फाईल /**Guard file.**

आदेशानुसार/ **BY ORDER,**

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सहायक पंजीकार (**Asstt. Registrar**)
आयकर अपीलीय अधिकरण