

आयकर अपीलीय अधिकरण, 'ए'/'बी'/'सी'/'डी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य, एवं श्री इंटूरी रामा राव, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 2130/Chny/2024

निर्धारण वर्ष /Assessment Year: 2017-18

Shri Gaura Nitai Seva Trust
No. 347, North Masi Street Madurai
Madurai 625001
[PAN : AAITS3768D]
(अपीलार्थी/Appellant)

Vs. Income Tax Officer
Exemptions Ward,
Madurai

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri T. Vasudevan, Adv.

प्रत्यर्थी की ओर से /Respondent by

: Shri N. Madan Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 24.02.2026

घोषणा की तारीख /Date of pronouncement

: 05.03.2026

आदेश / O R D E R

PER INTURI RAMA RAO, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee directed against the Order of the National Faceless Appeal Centre, Delhi (hereinafter called as 'NFAC') dated 20.06.2024 for the assessment year 2017-18.

2. The assessee raised the following grounds of appeal:

"1. The impugned order is illegal, opposed to the facts, contrary to law, without jurisdiction and against the principles of natural justice and therefore liable to be quashed.

2. The learned CIT (Appeals) erred in denying exemption under section 11 and 12 on the ground that the charitable activities of the assessee is advancement of any other object of general public utility.

3. The CIT(A) failed to appreciate that the activities of assessee-trust squarely falls within the precincts of the main provisions of sec.2(15) and was not justified in invoking the Proviso to sec.2(15) only to deny the claim of exemption, which otherwise has no application to the facts of the case of assessee.

3. The learned CIT (Appeals) ought to have seen that the charitable activities of the assessee are 'relief to the poor' and 'preservation of environment' and providing services at early childhood was 'education'.

4. The learned CIT (Appeals) ought to have seen that the predominant object of the trust was charitable purposes only and not to engage in any trade, commerce or business with a view to earn any profit.

5. The learned CIT (Appeals) ought to have seen that the income was applied to charitable purposes as envisaged in the objects to the trust deed and not appropriated by the trustees.

6. The appellant prays for leave to add, alter, amend or modify any or all the grounds at any time before or at the time of hearing.

3. The brief facts of the case are as under:

The appellant is a public charitable trust u/s 12AA of the Income Tax Act.

The appellant trust filed its return of income for the Assessment Year 2017-18 on 28.10.2017 admitting total income of Rs. Nil. After claiming deduction u/s 11 of the Act.

4. Against the said return of income, the assessment was completed by Income Tax Officer, Exemptions Ward, Madurai vide order dated 18th December, 2019 passed u/s 143(3) of the Act at a total income of Rs. 74, 41, 528/- while doing so the Assessing Officer had denied exemption u/s 11 of the Act by invoking the proviso to section 2(15) of the Act. The Assessing Officer of the opinion that the appellant trust was carrying on

activity in the nature of trade of commerce business as the appellant trust was engaged in the activity of purchase of sales and Milk and making and generating surplus.

5. Being aggrieved by the above assessment order, an appeal filed before Id. CIT(A) contending that the findings of the Assessing Officer is erroneous, it cannot be held that the appellant is engaged in the business of carrying on business at trade with a profit motive the mere fact that the appellant-trust generated surplus by itself it would not be sole consideration purchasing whether any activity is trade, commerce or business. However, the Id. CIT(A) while holding that the activity the appellant is in the nature of charitable activities. The appellant trust is indulging into trade and upheld the applicability of proviso to section 2(15) of the Act.

6. Being aggrieved the appellant is in appeal before us. In the present appeal, Id. Counsel for the appellant submitted that the Id. CIT(A) ought not to have upheld the applicability of proviso to section 2(15) of the Act. He submitted that the true trust to be applied is whether the surplus generated out of trading activity was applied for charitable or not the activity intimation by the appellant trust cannot be considered as a business activity as it is not undertaken with private motive. In this connection, the appellant trust has relied on the decision of Hon'ble Gujarat High Court in the case of Director of IT(Exemptions) vs.

Sabarmati Ashram Gaushala Trust [362 ITR 539] Gujarat HC and Hon'ble Delhi High Court in the case of Institute of Chartered Accountants of India & Anr. Vs. Director General of Income Tax (Exemption) & Ors., reported in [2012] 347 ITR 99 (Delhi).

7. On the other hand, Id. Sr. DR departmental representative vehemently opposed the above submissions.

8. We heard the rival submissions and perused the material on record. The issue has arisen for our consideration is whether the Id. CIT(A) was justified in upholding the denial of exemption u/s 11 of the Act. Admittedly, the activities of the appellant trust are charitable in the nature, the Assessing Officer has denied exemption u/s 11 invoking proviso to section 2(15) of the Act. It is an undisputed fact that the appellant trust has generated surplus income on account of the activity of purchase and sales of Milk so long as the profit surplus so generated was utilized for the charitable purpose. The appellant trust was found the exemption u/s 11 cannot be denied as held by the Hon'ble Supreme Court in the case of Thiagarajar Charities vs. Addl. CIT [1997] 225 ITR 1010 (SC). Since, the Assessing Officer had no occasions to examine the factual aspect whether the profit generated was utilized for charitable or not whether the concerned opinion that the matter may requires to remand the file of Assessing Officer per deno novo assessment keeping

in view the law laid down by the Hon'ble Supreme Court in the case of Thiagarajar Charities (supra)

9. In the result, appeal filed by the assessee is partly allowed.

Order pronounced on the 05th day of March, 2026 in Chennai.

Sd/-
(एबी टी. वर्की)
(**ABY. T. Varkey**)
न्यायिक सदस्य / Judicial Member

Sd/-
(इंटूरी रामा राव)
(**INTURI RAMA RAO**)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai, दिनांक/Dated: 05th March, 2026.

*Ganesh Kumar, Sr. P.S, on tour

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF