

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN “SMC” BENCH: DEHRADUN**

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No. 27/DDN/2026
[Assessment Year : 2016-17]**

B.R. Morden School Samiti Tara Lodge, Tehsil Road Pauri, Pauri, Uttarakhand-246001. PAN-AACAB6988M	vs	ITO Exemption, Ward Dehradun
APPELLANT		RESPONDENT
Appellant by	Shri Rajiv Sahni, CA	
Respondent by	Shri Amar Pal Singh, Sr.DR	
Date of Hearing	11.03.2026	
Date of Pronouncement	13.03.2026	

ORDER

PER MANISH AGARWAL, AM :

The present appeal is filed by assessee against the order dated 27.11.2025 passed by Ld. Commissioner of Income Tax (A), NFAC, Delhi [“Ld. CIT(A)”] u/s 250 of the Income Tax Act, 1961 [“the Act”] against the order dated 07.12.2018 passed u/s 143(3) Of the Act pertaining to Assessment Year 2016-17.

2. Before us, Ld.AR for the assessee submits that as per section 10(23C)(iiiad), annual receipts are to be considered for the purposes of allowing exemption to the educational institutions. Ld.AR submits that AO has wrongly considered gross receipts which includes voluntarily towards building fund as part of annual receipts to deny the exemption available u/s 10(23C)(iiiad) of the Act to the assessee.

For this, reliance is placed on the judgment of Co-ordinate Bench of Chennai Tribunal in **ITA No.611 & 612/Chny/2022** in the case of **M/s. Sathyam Educational & Charitable Trust vs ITO** order dated **06.04.2023** wherein it is held that the annual receipts should only be considered for the purpose of section 10(23C)(iiiad) and the corpus donation received with specific direction to develop infrastructure facilities is a capital receipts. Therefore, Ld.AR requested that the assessee's society be grant the exemption u/s 10(23C)(iiiad) of the Act since its annual receipts are less than Rs. 1.00 crores which is the threshold limit for claiming exemption u/s 10(23C)(iiiad) of the Act.

3. On the other hand, Ld.CIT DR for the Revenue vehemently supported the orders of the lower authorities and requested for the confirmation of the same.

4. Heard the contentions of both the parties at length and perused the material available on record. The claim of the assessee is that annual receipts for the year under appeal towards the educational activities was of INR 66,88,268/- only. Besides this, assessee has received voluntarily contribution towards building fund of INR 48,89,866/-. The AO treated the gross receipts of INR 1,16,17,149/- (66,88,268 + 48,89,866) and since the same exceeds the maximum threshold limit provided u/s 10(23C)(iiiad) of the Act for claiming exemption, denied the exemption to the assessee and the income was brought to tax.

5. In the instant case, AO has treated the gross receipts for the purpose of granting exemption u/s 10(23C)(iiiad) of the Act. Under identical circumstances the Co-ordinate Bench of Chennai Tribunal in the case of M/s. Sathyam Educational & Charitable Trust vs ITO (Supra) has restored the exemption u/s 10(23C)(iiiad) of the Act by making following observations:-

8. *“At the outset, the Ld.AR submitted that disallowance made by the AO u/s.10(23C)(iiiad) of the Act, by clubbing corpus fund with other receipts is not justified for the submissions of the assessee. As per provisions of Sec.10(23C)(iiiad) of the Act, the aggregate annual receipt of the school should be the receipts collected for Rs.49,19,960/- only. The corpus donation received with specific direction by the Trust to develop infrastructure for Rs.72,18,000/- is a capital receipt and the same cannot be taxed in the hands of the assessee, irrespective of the fact whether registration u/s.12AA of the Act, has been granted or not. To substantiate its contentions, the assessee drew our attention to the order of the Ld.CIT(A), wherein, the Ld.CIT(A) has not discussed the matter on merits, have decided the same on the basis of technicalities that there is no mistake apparent from the records and concluded that the AO has correctly dismissed the rectification petition of the assessee.*

9. *To fortify the argument on the assessee’s claim, the Ld.AR placed before us and relied upon the following judicial pronouncements having similarities with the case and issue in hand:*

1. *ACIT v Shiksha Samiti (2015) 38 ITR (Trib) 616 Delhi, dt. 16-2-2015- AY 2008- 09 (Followed Jat Education society (supra), and Sh. Mahadevi Tirath Sharda Maa Seva Sangh Vs ITO in ITA No. 1091/Chd/2009 Order dt 29.01.2010)*

In this case the AO issued notice u/s. 148 for reopening the assessment on the grounds that the annual receipts (capital and revenue) for the year under consideration exceeded Rs.1.00 crore and as such it is not eligible for exemption u/s.10(23C)(iiiad). During the assessment proceedings, AO noted that the AR of the assessee has submitted that the receipts of the society are only Rs.60,24,857/- and an amount of Rs.39,14,102/- was received as donation towards corpus fund. The AO held that the receipts of the society exceeded Rs.1.00 Crore and therefore exemption u/s 10(23C)(iiiad) is not allowed. The AO thus made the assessment vide his

assessment order dated 19.12.2011 passed u/s.148/143(3) of the IT Act.

CIT (A) allowed the exemption aggrieved the Dept. went in appeal before the Hon. ITAT, which upheld CIT (A) 's order and held that-

The amounts contributed, as corpus donations for Infrastructure development shall form part of corpus would not constitute income of the society. Therefore, the receipts of the educational institution are below Rs.1.00 Crore and as such exemption u/s 10 (23C)(iiiad) is allowable. For the purpose of section 10(23C)(iiiad), in the term 'aggregate annual receipts' refers to the receipts by the educational institution and not that of the society.

b. Divine Education Institute & social Development Society Vs. ITO (Del - Trib)

Corpus fund, which is meant for Specific purpose to meet out capital expenditure, cannot be a part of annual receipts of educational institution even if no registration u/s.12AA has been granted.

c. CIT Vs Shanthi Devi Educational Trust (P & H - High Court)

Assessing officer was not justified to be included the corpus donations in to aggregate annual receipts.

d. ITO v. Serum Institute of India Research Foundation. (2018) 169 ITD 271 / 195. TTJ 820 (Pune) (Trib.)

Dismissing the appeal of the revenue the Tribunal held that, corpus contributions being capital receipts, cannot be charged to tax though the trust is not registered (AY 2005 - 06).

10. *On the basis of principle of law laid down in the aforesaid judgments, it was the prayer of the assessee that since aggregate annual receipt of the school was below Rs.1 Cr., the AO has taken a stand against the provisions and intent of law and facts of the case which was further unjustifiably affirmed by the Ld CIT(A), therefore, it was the prayer of the Ld AR that the order of the Ld.CIT(A) is liable to be quashed and the exemption u/s.10(23C)(iiiad) of the Act deserves to be restored /allowed to the assessee.”*

6. Since the facts are identical, thus by respectfully following the judgement of Co-ordinate Bench of Chennai Tribunal (supra), we hold that for granting exemption u/s 10(23C)(iiiad), annual receipts

alone need to be considered and the voluntarily donation with specific directions such as for building fund should be treated as capital receipts not forming part of annual receipts. Accordingly, the assessee's annual receipts being below INR 01.00 crore, it is entitled for exemption u/s 10(23C)(iiiad) of the Act which is hereby, allowed to the assessee.

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

Order pronounced in the open Court on 13.03.2026.

Sd/-

**(YOGESH KUMAR U.S.)
VICE PRESIDENT**

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

Date- 13.03.2026

Amit Kumar, Sr.P.S

Copy forwarded to:

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3. CIT
4. CIT(Appeals)
5. DR: ITAT
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Sr.P.S/ASSISTANT REGISTRAR
ITAT, NEW DELHI
(Dehradun Circuit Bench, Dehradun)