

आयकर अपीलीय अधिकरण न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JM &
SHRI ARUN KHODPIA, AM

I.T.A. No.1447/Mum/2026
(Assessment Year: 2016-17)

Global Vision Shop No.29, 1 st Floor, Chitalsar, Manpada, Godbunder Road, Thane, Maharashtra-400607 PAN: AABTG3853E	Vs.	ITO (Exmp) Thane Quereshi Mansion, Gokhale Road, Naupada, Thane (West), Near Teen Hath Naka, Thane, Maharashtra-400602
Assessee- अपीलार्थी / Appellant	:	Revenue -प्रत्यर्थी/ Respondent

Assessee by : Shri Haridas Bhat
Revenue by : Shri Yaduraj Singh – SR. DR.
Date of Hearing : 06.04.2026
Date of Pronouncement : 17.04.2026

ORDER

Per Arun Khodpia, AM:

This appeal is instituted by the assessee, directed against the order of Commissioner of Income Tax Appeals – ADDL/JCIT(A) – 4 Chennai [“the Ld. CIT(A)"] dated 26.12.2025 for the assessment year 2016-17 arises from assessment order u/s 143(3) of the Income Tax Act, 1961 (“the Act”) dated 30.12.2018 passed by ITO (Exemption) Ward, Thane. The grounds of appeal raised by the assessee are as under:

“1. On the facts and circumstances of the case, and in Law, the CITA has erred in confirming the disallowance of Rs. 1,88,66,966/- as application of Income as not utilized towards the objective.

2. On facts and circumstances of case and in law the CITA has failed to appreciate that:-

a. The Funds were applied for object of trust, which included the personnel payment by way of Contractual and regular employments.

b. Payment of Salary are incidental to the main objects of the trust and that alone can never be the object of the trust.

c. The AO did not doubt the purpose of the said payments, and non-salary expenses are considered as utilized for charitable purpose.

d. The AO mentions that only 20% of the receipts are spent on charity and balance on contractual payments, while allowing almost 80% (7,23,10,783/- out of 9,11,77,749/-) of the receipts as charitable.

e. CIT(A) as confirmed the additions without any justification.

3. The Appellant therefore prays that the said payments may please be allowed as application of income for charitable purposes, and addition may kindly be deleted.”

2. Briefly stated, the ITR for relevant assessment years has been filed by assessee on 17.10.2016, declaring income at NIL. The case was selected for scrutiny under CASS. Accordingly, notices u/s 143(2) and 142(1) were issued along with questionnaires. The assessee submitted response before the AO by filing copies of return, income and expenditure, bank statement, balance-sheet and other details called for. Further, statements u/s 131 of the Act of one of the trustee Shri Vishanu Adhikari, Trustee were recorded on 29.11.2018. From the statements so recorded, the question regarding contract salary, contract incentives viz-a-viz trust's needs, asked by the AO, could not be properly answered by the trustee. the Ld. AO therefore observed that, as per question no.25 of the statement, the trustee was asked to explain that a huge amount has been expended by the assessee trust towards contract and incentive, which could not be substantiated to be incurred for the object of the trust. The said amount is much higher than the 15% of the gross receipt of the trust, therefore, the same cannot be considered to be used towards object of the trust. The trustee was requested to

explain, as to why the same should not be treated as willful attempt to evade taxes. In response, the trustee answered “I don’t understand the technicalities of Income Tax Act, 1961. I will answer the same after discussing with my CA by 03.12.2018.”

3. Subsequently, a reply was submitted before the AO wherein the assessee has submitted powers of the trustees, according to which the trustees are empowered to engage or employ managers, supervisors, clerks and other type of employees and to fix their term of employment in general or in particular to any individual and pay their salaries or wages as may be fixed from time to time. Further, regarding application of income, the assessee submitted before the AO that the income of the assessee trust has been applied for charitable or religious purposes. The income has been arrived at, after the incurring required expenses and charges including the contractual payments. Therefore, the trust has applied more than 85% of its income towards the objects of the trust. The aforesaid reply of the assessee could not find favour from the AO, as the AO observed that the reply of assessee has not addressed the issue of payment of contract salary and contractual incentives and their necessity towards the object of the trust. The response of assessee was found to be evasive and in isolation to mislead the assessment and deviate on the point which is out of context in respect of the statement.

4. Ld. AO reproduced the definition of trust, definition of charity and definition of charitable trust along with the intent of the institute to provide exemption to such entities. Ld. AO further noted that in the instant case, the assessee trust had collected money from donors and only 20% of the same is spent on charity. The trust is engaged in ultra vires acts by paying more than 20% of the collection to the contractors in the guise of contract salary and contract incentive. Ld. AO further noted that the contractual payments are over and above the payments to salaried employees of the trust on which no PF was deducted, no provision for gratuity was made and no ESIC payments were made.

5. With aforesaid observations, an addition of Rs.1,57,33,598/- towards the contractual salaries and 31,33,368/- towards contract incentives was made.

6. Aggrieved with the aforesaid additions, assessee preferred an appeal before the Ld. CIT(A), wherein the contentions raised by the assessee against the order of AO could not impress upon the Ld. CIT(A). The Ld. CIT(A), therefore, concluded the appeal by confirming the addition made by the AO, the appeal of assessee was dismissed.

7. Being dissatisfied with the impugned order by the Ld. CIT(A), the assessee preferred an appeal before this tribunal, which is under consideration before us in the present matter.

8. At the outset, Ld. AR representing the assessee submitted that the assessee trust has appointed certain persons on contractual basis for working towards the objects of the trust for which salaries and the incentives were paid to them. Ld. AR placed before us a sample copy of letter of appointment of a contractual employee, namely, 'Aarti Rameshchandra Arya', who has been appointed as "fund raising executive" and she was paid an amount of Rs.15,000/- per month (Annual 1,80,000/-). The appointment letter contains terms of employment, termination, confidentiality, intellectual property developed during employment, post-employment restrictions, notice period for termination, absconding, return of organization property, probation etc. The contractual employee has also signed a letter of undertaking as well as commitment sheet. Base on aforesaid submissions, it is argued by the Ld. AR that the contractual appointments are for the purpose of object of trust and it is not necessary to mention in the Trust Deed itself that what should be the form of appointment for employees of the trust. It may be regular or contractual that depends upon the wisdom of the trustees of the trust, who are empowered to do so. Therefore, the addition made by Ld. AO was on the basis of assumption and surmises, arbitrary and excessive. Thus, the same is liable to be struck down.

9. Per contra, Ld. DR representing the revenue submitted that as per Trust Deed of the assessee trust under the powers of trustees Item No. (d), explains that the trustees can engage or employee managers, supervisors, clerks from time to

time, but there was no mention about contractual employment. It is further submitted by the Ld. DR that as per submission of the assessee at paper book page 32, it is explained that the assessee trust has helped more than 2,000 cancer patients in overall India and disturbed more than 6.54 crore rupees for their treatment in 10 years, which is not in ratio of the receipts of the assessee trust, whereas during the year under consideration itself, the assessee trust has received income of Rs.8,98,40,676/-.Whereas, the total charitable expenditure of the trust was only Rs.6.54 crore in previous 10 years. It is further found to be irrational that for generating the income of 8 crores, the assessee trust had incurred expenditure on contractual salary and incentive for almost 1.89 crores (Rs. 1,57,33,598+ Rs. 31,33,368), which is more than 20% of the total income of the assessee trust for the year under consideration. Therefore, such a huge expenditure on a particular head needs proper clarification and its necessity for the object of the trust, which could not be explained and established by the assessee trust, either before the AO or before the Ld. CIT(A). Consequently, the addition was rightly made by the AO and sustained by the Ld. CIT(A).

10. We have considered the rival submissions, perused the material available on record, admittedly in present case the assessee had incurred an expenditure of Rs.1.89 crores consisting of contractual salary and contractual incentives, beyond regular salaries paid to the employees of the trust. Such amount is more than 20% of the total receipts of the assessee trust for Rs.8.98 crores, out of which an

amount of Rs.1.80 crores was spent by the assessee trust on secular education (Rs.33,980/-) and medical relief (Rs.1,76,96,535/-) which is also 20% of the total income of the assessee trust. Such ratios from the state of affairs of the trust shows that the assessee trust is incurring expenses on charities equal to the amounts allocated for payment to contractual employees and their incentives for fund raising. Such ratio raises serious doubts about the expenditure incurred by the assessee on contractual payments, which though are tried to be supported by producing the letter of contract before us having exhaustive terms and conditions for appointment, however nothing could be brought on record to establish, as to why such expenditures incurred for fund raising are a necessity towards the object of trust and how much fund were raised by such contractual employees. All such aspects need a close verification without which this issue cannot be taken to its logical end. Since, the response of assessee before the AO as well as CIT(A) and the documents furnished before us are not substantive enough to establish that such expenditures are incurred for the objects of the trust and thereby the trust was benefitted to achieve the same. We find it appropriate to set aside this matter back to the file of Ld. CIT(A) for fresh adjudication on the issue by calling all such information from the assessee trust which are requisite for a logical and justified conclusion, wherein the assessee trust is also directed to provide all the necessary information, evidence and clarifications to explain, as to how the expenditure of more than 20% incurred on contractual payments for fund raising was necessary for the objects of the trust.

11. In the backdrop of aforesaid facts and circumstances and observations, the matter is restored to the file of Ld. CIT(A) for fresh adjudication, in terms of our aforesaid observations.

12. In result, the appeal of assessee stands dismissed, for statistical purposes as indicated herein above.

Order pronounced in the open court on 17-04-2026.

Sd/-
(NARENDER KUMAR CHOUDHRY)
Judicial Member

Sd/-
(ARUN KHODPIA)
Accountant Member

Mumbai, Dated : 17-04-2026.
Ankit, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai