

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No.297/Del/2022

Assessment Year: Nil

Shree Jagat Guru Brahmanand Gaushala Samiti, Village-Kurana Panipat, Panipat	Vs.	CIT(E), Chandigarh
PAN: AAKAS9562J		
(Appellant)		(Respondent)

Assessee by	Sh. Samyak Jain, CA
Department by	Sh. Mahesh Kumar, CIT(DR)

Date of hearing	03.11.2025
Date of pronouncement	03.11.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal arises against the Commissioner of Income Tax (Exemption), Chandigarh's DIN and order no. ITBA/EXM/S/EXM1/2020-21/1028020435(1), dated 21.09.2020 involving proceedings under section 12AA(1)(B)(ii) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. It emerges during the course of hearing that the learned CIT(Exemption) has refused section 12AA registration to the assessee vide his following detailed discussion:

“6. After considering the submissions on record, it is observed that the applicant has shown an amount of Rs. 11,00,000/- as Corpus Grants in its Balance sheet for F.Y. 2015-16, Rs. 5,00,000/- as Government grants in FY 2017-18 and Rs. 7,28,685/- as Building Fund in FY 2018-19. The society has diverted these receipts in the name of corpus to the Balance Sheet which, rather, should have been taken as income in the Income & Expenditure account for the respective previous years.

As per the provisions of the Income Tax Act, 1961, corpus donation/grants would be exempt only under Section 11(1)(d) and an assessee can claim benefit u/s 11 only when such assessee is registered u/s 12A or 12AA. This assertion is not only backed by the statute but also by the decision of Hon'ble Supreme Court in the case of CIT vs. U P Forest Corporation, 230 ITR 945 (SC) [1998] and decisions of various other Hon'ble High Courts like: (A) New Life in Christ Evangelit Association vs. CIT reported in 246 ITR 532 (Madras) [2001]; (B) CIT vs. Red Rose School reported in 212 CTR (All) 394; (C) M. Visvesvaraya Industrial Research & Development Centre vs. ITAT reported in 251 ITR 852 (Mumbai) [2001]; (D) CIT vs. Otacamund Gymkhana Club reported in 110 ITR 392 (Madras) [1977] and (E) Gouri Shankar Deity vs. Union of India 145 ITR 67 (MP) [1984].

Before the period of grant of registration, all voluntary contributions (including the ones with specific direction that they shall form part of the corpus) are the income of a charitable, religious or charitable cum religious trust. Therefore, in the present case, the corpus donation shown by the applicant on record during FY 2015-16, 2017-18 & 2018-19 (and for any other previous years) is the income of the applicant and, thus, the trust/society becomes liable to pay tax for all these years. Further, the ITR for A.Y. 2016-17, 2018-19 & 2019-20 corresponding to F.Y. 2015-16, 2017-18 & 2018-19 has been filed by the applicant without showing these grants as income of the society during the year and no tax has been paid. However, the applicant should have added the amount shown against corpus fund during the year into its income and then it should have filed the correct ITR and paid taxes. Unless the legitimate tax against the income, as discussed above, is paid, the application for registration u/s 12AA of the Act cannot be considered. The trust has illegally taken the benefit of provisions of the Income Tax Act for getting tax exemption benefits

and has tried to subvert the Income Tax laws. This act of the applicant is unacceptable and the jurisdictional assessing officer will be intimated to take remedial action in the matter.

7. In light of the above discussion, I do not find the applicant trust eligible for getting registration u/s 12AA of the Act and, therefore, the present application for registration u/s 12AA of Income Tax Act, 1961 is hereby rejected.”

3. Faced with this situation, learned CIT(DR) could hardly dispute that instead of having examined the assessee's charitable objects in its trust deed vis-à-vis the activities to be carried out in light thereof, the CIT(Exemption) herein has only gone by some alleged application involving the corpus donations and govt. grants in various assessment years (supra). That being the case, we are of the considered view that such an issue of corpus grants etc. could be examined only in section 11 exemption proceedings since all what the learned CIT(Exemption) could consider at the time of section 12AA registration is the assessee's object clauses vis-à-vis the corresponding proposed activities as per CIT(E) Vs. International Health Care Education & Research Institute (2025) 171 taxmann.com 579 (SC). We thus reverse the CIT(Exemption) impugned order to this extent and direct him to pass a fresh one as per law preferably within three effective opportunities subject to a rider that the assessee shall plead and prove

the case at its own risk and responsibility, in consequential proceedings. Ordered accordingly.

4. This assessee's application is allowed for statistical purposes.

Order pronounced in the open court on 3rd November, 2025

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 13th November, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi