

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “ए” , चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH “A”, CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No.962/Chd/ 2025

निर्धारण वर्ष / Assessment Year : 2017-18

Haryana Saraswati Heritage Development Board SCO 217, 1 st Floor, Sector 14, Sector 15, Panchkula S.O. Panchkula-134113, Haryana	बनाम	The DCIT/ACIT Circle-2, Chandigarh
स्थायी लेखा सं. / PAN NO: AAAJH0522L		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Ashok Goyal, C.A
राजस्व की ओर से/ Revenue by : Shri Manav Bansal, CIT, DR

सुनवाई की तारीख/Date of Hearing : 04/11/2025
उद्घोषणा की तारीख/Date of Pronouncement : 28/11/2025

आदेश/Order

PER KRINWANT SAHAY, A.M:

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/NFAC, Delhi dt. 20/05/2025 pertaining to Assessment Year 2017-18.

2. In the present appeal Assessee has raised the following grounds:

1. That the Ld. CIT(A) has erred in upholding the addition of Rs. 9,42,35,873/- made by the Ld. AO without appreciating the facts and circumstances of the case, whereby the board has received budget allocation upon the formation of the board which represents the corpus.

2. That the appellant craves to add, amend or alter grounds of appeal before the appeal is finally heard and disposed off.

3. The assessee, Haryana Saraswati Heritage Development Board, located at SCO-127, 1st Floor, Sector-14, Panchkula, filed its return of income on 03.11.2017 at Nil income. Subsequently, the return was revised on 29.12.2017, again showing Nil income. The case was selected for scrutiny under CASS, and accordingly, a notice under section 143(2) of the Income Tax Act, 1961 was issued on 23.08.2018 for compliance by 27.08.2018.

3.1 The case was then transferred from the Office of the ITO (Exemptions), Panchkula, to the ITO (Exemptions), Ambala, on 04.10.2019. Thereafter, a detailed questionnaire under section 142(1) was issued on 04.01.2019, and further notices were issued on various dates including 20.09.2019, 08.11.2019, 22.11.2019, and 04.12.2019. The assessee was repeatedly directed to submit requisite information and supporting documents, including proof of registration under section 12A/12AA.

3.2 As per the ITR & Form 10B, the assessee had shown gross receipts of Rs. 10,47,49,895, expenditure of Rs. 1,05,14,022, and surplus of Rs. 9,42,35,873 claiming exemption under sections 11 and 12. However, despite several statutory notices, no response was filed by the assessee through the e-proceeding system. As no registration certificate under section 12A was submitted, the AO held that the assessee could not be treated as a charitable entity.

3.3 The AO recorded that the assessee was provided ample and repeated opportunities to furnish the requisite information and evidences through e-proceedings. However, the assessee failed to comply with any of the notices issued under sections 143(2) and 142(1). Consequently, a last and final opportunity was granted via notice dated 04.12.2019, specifically warning that failure to comply would result in ex-parte assessment and denial of exemption under sections 11 and 12 of the Act. Even after this, no reply was filed before the due date 08.12.2019.

3.4 In the absence of registration under section 12A, the AO held that the assessee cannot be treated as a charitable entity, and therefore exemption under sections 11 & 12 was denied. The surplus income of Rs. 9,42,35,873 was treated as taxable income, resulting in a total assessed income of Rs. 9,42,35,873 for A.Y. 2017-18 (as per computation table on page 3). The AO further observed that the assessee had under-reported income, and therefore penalty proceedings under section 270A were initiated separately for misreporting of income. Interest was also charged under sections 234B, 234C, 234D, and 244A, and tax was directed to be computed at the maximum marginal rate, as per section 164(3) of the Act.

4. Against the order of the AO the assessee went in appeal before the Id. CIT(A). The CIT(A) examined all the grounds of appeal and noted that although the assessee had obtained registration under section 12AA with retrospective effect, this alone did not qualify for exemption under section 11. The assessee failed to apply at

least 85% of its income towards charitable purposes and did not file Form 10, which are mandatory conditions for claiming exemption. The CIT(A) further observed that several statutory notices under sections 142(1) and 143(2) were issued during the assessment, but the assessee did not respond to them. The assessee only became active during the appellate stage and submitted additional evidence after the remand, which showed that due opportunity had already been provided. Therefore, the allegation of violation of natural justice was rejected. Judicial precedents were also considered, and it was concluded that retrospective registration alone does not guarantee exemption. Finally, the addition of Rs.9,42,35,873/- was upheld, the penalty proceedings under section 270A were considered to be separately appealable, and the appeal was only partly allowed for statistical purposes.

5. Against the order of the CIT(A) the assessee preferred in appeal before the Tribunal.

6. During the course of hearing the Ld. Counsel for the Assessee argued that the assessee has received corpus fund /grant in aid from the Government of Haryana under section 11(1)(d) therefore it should not be considered as income of the assessee, accordingly, it cannot be taxed.

6.1 On this issue the assessee has filed a written submission contents of which read as under:

3.1 *It is submitted that Under the Income Tax Act, 1961, the requirement that a charitable or religious trust/institution must apply at least 85% of its Receipts (including donations, except corpus donations) for charitable purposes is laid down in Section 11(1)(a) of the Act. The relevant para is reproduced as under:*

"Income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent it does not exceed fifteen per cent of the income from such property, shall not be included in the total income of the previous year"

It is further submitted that the Receipts do not include the amount of Voluntary Contribution received in the form of Corpus Fund in accordance with section 11(1)(d) of the Act. The amount of Corpus Fund is shown in "Column A of Schedule VC" in the return of income of the Assessee. Further, Section 11(1)(d) of the Act states that,

"Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution 36, subject to the condition that

such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus."

As per the above provisions, the amount of voluntary contribution in the form of corpus fund donation (grant in aid) is out of ambit of taxable income. The Assessee was in receipt of voluntary contribution as Corpus Donation Fund which does not form part of total income. So, there was no surplus of excess of income over expenses in the case of the Assessee.

7. Per contra, the Ld. DR relied on the orders of the lower authorities.

8. We have considered the findings given by the AO in the assessment order and by the Ld. CIT(A) in the appellate order. In fact the assessee appeared before the Ld. CIT(A) but the Ld. CIT(A) who has passed the appellate order without considering the submission of the assessee, therefore the matter is remanded back to the file of Jurisdictional AO to verify the claim of the assessee of corpus fund / grant in aid and pass the order on this issue after giving due opportunity to the assessee as required by law.

9. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 28/11/2025

Sd/-

ललित कुमार
(LALIET KUMAR)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

कृणवन्त सहाय
(KRINWANT SAHAY)

लेखा सदस्य/ ACCOUNTANT MEMBER

AG

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar