

आयकर अपीलीय अधिकरण, 'ए' (एस एम सी), न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'A' (SMC) BENCH, CHENNAI

श्री जॉर्ज जॉर्ज, उपाध्यक्ष के समक्ष

BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT

आयकर अपील सं./**ITA No.: 2193/CHNY/2025**

निर्धारण वर्ष/Assessment Year: 2018-19

**M/s. Lakshmiammal Progressive
Educational Trust,**
50, Lakshmi Illam,
Kalaimagal Street,
Komarapalayam,
Namakkal – 638 183.

The Income Tax Officer,
Vs. Exemptions,
Salem

PAN: AAATL 7707F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S.R. Srikrishna, CA
प्रत्यर्थी की ओर से/Respondent by : Ms. V. Supraja, Addl.CIT

सुनवाई की तारीख/Date of Hearing : 29.10.2025
घोषणा की तारीख/Date of Pronouncement : 30.10.2025

आदेश/ O R D E R

This appeal filed by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 23.04.2025 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2018-19.

2. There is a delay of 36 days in filing this appeal. The assessee has filed a petition for condonation of delay along with an affidavit stating therein the reasons for belated filing of this appeal and also prayed for condonation of delay. On perusal of the reason stated in the affidavit for belated filing of this appeal, I'm of the view that there is sufficient cause for belated filing of this appeal and no latches can be attributed to the assessee. Hence, I condone the delay in filing this appeal and proceed to dispose off the appeal on merits.

3. The grounds raised by the assessee reads as follows:-

1. *The impugned order of the Commissioner of Income-Tax (Appeals) is wrong, illegal, opposed to law, facts, judicial interpretation, principles, submissions made, details available on record, conventions and is hence liable to be cancelled.*
2. *LACK OF JURISDICTION: a) The Commissioner of Income Tax (Appels) has erred to pass an order based on a High Court judgment which has been stayed by the Honorable Supreme Court by its order dated 24.11.2023 in the case of M/S SRI VENKATESWARA EDUCATIONAL AND HEALTH TRUST vs CIT*
3. *b) The Commissioner of Income Tax (Appels) has erred to assume jurisdiction to change the section under which addition was made, which is beyond his powers DENIAL OF BENEFIT u/s 11 FOR Rs.31,60,400 IS WRONG: In facts, law and circumstances, The Ld. Commissioner of Income Tax (Appeals) has erred in denying benefit of section 11 for an amount of Rs.31,60,400.*
4. *PRAYER: The appellant craves leave to file additional grounds of appeal / Additional evidences, if any at the time of hearing and it is prayed that the contested addition be deleted, tax demand.be cancelled*

4. Brief facts of the case are as follows:

The assessee is a public charitable trust registered u/s.12AA of the Act. It is running an educational institution. In the return filed on 30.10.2018 for the assessment year 2018-19, assessee had shown a sum of Rs.49,03,218/- as surplus over expenses and claimed the same as exempt u/s.11 of the Act. The AO during the course of assessment proceedings found that the assessee trust had received donation of Rs.31,60,400/- in cash. The AO directed the assessee to submit the details of donations. Since no such details were furnished before completion of assessment, the AO in the assessment order passed u/s.143(3) r.w.s.143(3A) & 143(3B) of the Act dated 29.01.2021, treated the donation of Rs.31,60,400/- as anonymous donation and taxed the same u/s.115BBC of the Act.

5. Aggrieved by the assessment order completed, assessee filed appeal before the First Appellate Authority (FAA). Before the FAA, assessee submitted that due to the demise of their Chartered Accountant, it had failed to provide the details of donations received by them during the assessment stage. During the course of appellate proceedings, assessee had submitted full details of such donations received. The FAA accepted the fact that it is not

anonymous donations however, treated the same as not voluntary donation since it was part of the procedure for admission in schools and confirmed the disallowance of exemption u/s.11 of the Act of Rs.31,60,400/-. The relevant finding of the FAA reads as follows:-

4.4. I have perused the submissions of the assessee. I find that all these donations were received from students of the school run by the Trust and in the receipt issued it was clearly written as the donation, received towards the corpus of the Trust fund. Moreover, from the declarations received from the parents of the students, from whom such donations were received, it is clearly evident that making of the donation was made a part of the procedure for admission in the school and continuation in the school and such donations were collected from the students every year.

In a landmark decision of CIT - Vs. - MAC Public Charitable Trust, reported in 450 ITR 368, the Hon'ble High Court held that amounts collected as donations are actually in the nature of capitation fees and are directly connected/continuation of study by the students in school.

Therefore, the said donations were not voluntary contributions. The Court also held that if receiving of funds under the veil of donations, are not eligible for exemption u/s. 11 if they are not voluntarily given by the donors.

I find that the donations received from 808 students of the school compulsorily cannot be treated as voluntary contribution towards the corpus of the Trust fund and such involuntary collection cannot get any exemption u/s. 11 of the Act. Therefore, I find the treatment of the sum of Rs. 31,60,400/- as made by the AO is correct, although I disagree with the AO that such receipts are as anonymous donations. The benefit of exemption u/s. 11 is denied against the receipt of Rs. 31,60,400/- and the appeal of the assessee is therefore dismissed.

6. Aggrieved by the order of the FAA, assessee has filed the present appeal before the Tribunal. Assessee has filed two sets of

paper-book. In one set of paper-book assessee has enclosed the case laws relied. In the other set of paper-book, notices issued and evidences filed during the course of first appellate proceedings are enclosed. The Ld.AR submitted that the FAA has erred in relying on the judgment of Hon'ble Jurisdictional High Court in the case of CIT vs. MAC Public Charitable Trust, reported in 450 ITR 368 (Madras HC). It was submitted that the said judgment of Hon'ble Madras High Court was stayed by the Hon'ble Apex court in the case of MAC Public Charitable Trust vide its order dated 04.12.2023 (a copy of which is placed on record). It is further submitted that the ITAT, Chennai Benches in the case of St. Joseph's Institute of Science & Technology Trust & Anr. vs. PCIT in ITA Nos.1618 to 1620/CHNY/2020, order dated 15.10.2024 had clearly held by the virtue of Hon'ble Supreme Court judgment the operation of the judgment of Hon'ble Jurisdictional High Court in the case of MAC Public Charitable Trust is not operative and is not binding. Further on merits, the Ld.AR submitted that the donations are voluntary donations and the FAA had merely made inferences on conjectures and surmises. It was submitted that the FAA had not made any independent enquiry to prove his conclusion that donations are not voluntary in nature.

7. The Ld.DR strongly supported the order of the FAA.

8. I have heard rival submissions and perused the material on record. The FAA at Para 4.3 of impugned order has admitted that the assessee had furnished full details of the donations received. Therefore, did not treat the donations as anonymous donation. The FAA, however treated the donations as not voluntary donation and sustained the addition made by the AO. I notice that the FAA has not carried out any independent enquiry or verification to ascertain whether donations are voluntary or not. The findings of the FAA appear to rest on presumptions, surmises, and conjectures, rather than on any concrete material or evidence. The assessee has filed sample donor documents and letters, which indicate that the donations were voluntary in nature. The declaration appearing in the application form for admission is of a general nature and cannot be interpreted as forming part of the admission procedure or as a condition precedent for securing admission in the school. The observation of the FAA that donations were collected every year is found to be factually incorrect and devoid of any basis. The assessee has produced a year-wise list of donations from assessment years 2016-17 to 2025-26, along with the corresponding audited financial statements. On perusal of

these details, it is evident that voluntary donations were received only in A.Ys. 2018-19, 2019-20, and Rs.6.63 lakhs in A.Y. 2020-21. Thus, the general assumption of recurring annual collections made by the FAA is not supported by the record.

9. The reliance placed by the FAA on the decision in CIT vs. MAC Public Charitable Trust is misconceived, as the operation of the said judgment has been stayed by the Hon'ble Supreme Court. Moreover, it has been held by the ITAT, Chennai Bench, in DCIT vs. Sindhi Educational Society (ITA Nos. 975 to 981/Chny/2022, Para 22, Page 17) that the Tamil Nadu Educational Institutions (Prohibition of Collection of Capitation Fee) Act, 1992 does not apply to schools.

10. The letters submitted by the donors corroborate the voluntary character of the donations. No material evidence has been brought on record by the Revenue to show that the donations were compulsory or collected as capitation fees. The total amount of donations of Rs.31,60,400 was received from 808 students/parents, which works out to an average of ₹3,911 per person. The amount is too small to be categorized as capitation fee or a mandatory contribution linked to admission. I also notice

that donations were received from student who were studying for many years in the school run by assessee trust, thereby inference could be made donations were not linked to grant of admission but voluntary contribution for building fund.

11. In view of the above observations, it is apparent that the FAA has failed to discharge the burden of proof in establishing that the donations were not voluntary. The findings are general in nature and lack factual or evidentiary support. Considering the material placed on record by the assessee, the donations are found to be voluntary in nature, and hence, cannot be treated as income chargeable to tax. Accordingly, the addition sustained by the FAA is unsustainable in law as well as on facts and is therefore directed to be deleted.

12. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 30th October, 2025 at Chennai.

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated, the 30th October, 2025

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.