

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

**BEFORE,
SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.7687/Del/2018
(ASSESSMENT YEAR 2014-15)**

Dy. Commissioner of Income-tax (Exemption), Circle-Ghaziabad.	Vs.	M/s Yug Nirman Yojna Vistar Trust, Vidya Vistra Bhawan, Jai Singh Pura, Vrindavan Road, Mathura (U.P.) PAN-AAATY 2059F
(Appellant)		(Respondent)

Appellant By	Sh. Akhilesh Kumar and Sh. Krishna, Advs.
Respondent by	Sh. Ramdhan Meena, Sr. DR

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Revenue is filed against the order of Learned Commissioner of Income Tax (Appeals)-2, Agra [Ld. CIT(A)", for short], dated 28.09.2018 for Assessment Year 2014-15. The only dispute in this appeal, is whether the assessee is eligible for exemption u/s 11 of Income Tax Act, in respect of an amount of Rs.3,16,43,346/- claimed by the assessee as exempt income; but

assessed by the Assessing Officer as taxable income. The assessee is a trust, registered u/s 12A of Income Tax Act. Perusal of assessment order dated 29.12.2016 passed by the Assessing Officer u/s 143(3) of Income Tax Act; shows that registration u/s 12A was granted to the assessee by order dated 01.05.2009 of Ld. CIT(A), Agra. However, the Assessing Officer, vide aforesaid assessment order dated 29.12.2016, denied benefit of exemption u/s 11A read with section 12A of Income Tax Act and treated the assessee's income, amounting to Rs.3,16,43,346/- as business income instead of exempt income as claimed by the assessee. Assessee filed appeal before the Ld. Commissioner of Income Tax (Appeal)-2, Agara ("Ld. CIT(A)" for short). Vide impugned appellate order dated 28.09.2018, the Ld. CIT(A) allowed the assessee's appeal; deleting the aforesaid addition of Rs.3,16,43,346/-; by holding that the assessee was eligible to claim exemption under provisions of section 11 of Income Tax Act. The relevant portion of the aforesaid impugned appellate order of the Ld. CIT(A) is reproduced as under:

“3. In this case, assessment has been made by the A.O. at an income of Rs.3.16,43,346.65 as against the returned income of Rs. Nil. The appellant trust’s claim of exemption under the

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provisions of section 11 r.w.s. 12A has been denied by the A.O. on her finding that it had been “carrying out religious activities and working for a particular religion and for a particular religious community”. Provisions of section 13(1)(b) of the Act have been cited and relied upon by the A.O. while reaching to the decision of disallowing the appellant's claim of exemption under section 11.

4. Aggrieved by such addition to its income, the appellant has filed this appeal with the following grounds of appeal :-

1. Because the order of Ld. Assessing Officer is bad in law and against the facts and circumstances of case and hence unsustainable and liable to be quashed.
2. Because the assessment proceedings are beyond legal jurisdiction as per legal provisions of the Income Tax Act, 1961 and thus bad in law and liable to be quashed.
3. Because the Ld. Assessing Officer failed to provide an opportunity of being heard against the principal of nature justice and thus the assessment is bad in law and liable to be quashed.
4. Because the Ld. Assessing Officer has grossly erred on facts and law in invoking section 13(1)(b) of the Act and has resumed jurisdiction beyond law and thus the assessment is bad in law and liable to be quashed.
5. Because the assessee Trust has been consistently pursuing the same objects and activities since its inception duly accepted and assessed in earlier years, and the Ld. AO has arbitrarily rejected the same activities to be eligible u/s 11 of the Act for the current year without any basis and reason and hence the assessment is bad in law.
6. Because the assessing officer has grossly erred on law and facts while making an addition of Rs.3,16,43,346/- as business income u/s 164(2) denying exemption u/s 11 and hence the assessment order is unsustainable and addition is liable to be deleted.
7. The appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”

5. During the course of the present proceedings, the A.R. has furnished a written submission dated 25.09.2018. Besides a paper-book containing 119 pages has also been furnished by him. Relevant extract of the written submission is reproduced below:-

1. The appellant, Yug Nirman Yojna Vistar Trust is a Religious Trust, founded by Sri Mrityunjaya Sharma S/o Pandit Shriram Sharma Acharya, on 14.01.2009 vide Registered Trust Deed at Bahi No. 4 Jild No. 157 with sub-registrar, Mathura-I, the Trust was founded to propogate, define, and explain the true aspect of Dharma (Religion) and preach Gayatri Upasana. Attention is invited to Page No. 2-3 of the Registered Trust Deed at Page No. 01-80 of PB whereat the objects of the Trust are detailed.

2. The appellant filed the aforesaid Religious Trust Deed to obtain Registration u/s 12A of the Income Tax Act, 1961 and duly explained the purpose and objects of the Trust as a religious trust vide its reply dt. 27.04.2009 in the course of proceedings of 12A Registration which is placed at Page No. 81-84 of PB.

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3. Thereafter, the appellant was duly registered w/s 12A of the I.T. Act as a religious Trust, Copy of 12A certificate dt. 01.05.2009 is placed at Page No 85 of PB.

4. The appellant has been continuously engaged in pursuance of its declared objects as per the Trust Deed and has been functioning as a religious trust since its inception on 14.01.2009. The appellant has been regularly assessed by the Income Tax Authorities/Assessing Officers and the assessment orders passed for A.Y. 2012-13 & 2013-14 are placed at Page No. 86- 89 of the PB. In all the assessment proceedings till A.Y. 2013-14, the activities of the appellant as a religious trust have been examined and accordingly the appellant has been assessed as a religious Trust and due exemption w/s 11 of the I.T. Act has been consistently allowed.

5. In the assessment proceedings for the A.Y. 2014-15 under current appeal, the Ld. AO issued a Show Cause notice no. 1523 dt. 04.11.2016/08.11.2016 (Placed at Page No 92-93 of PB) to show cause why Sec. 13(1)(b) of the I.T. Act not be invoked and thereupon the exemption w/s 11 not be denied. The appellant filed a detailed reply before the Ld. AO on 28.11.2016 (copy enclosed at Page No. 94-97), explaining that the appellant is a Religious Trust and thus the provisions of Sec. 13(1)(b) does not apply to the appellant. As the appellant trust is a religious trust and not a charitable trust, it is not eligible to be recognize w/s 80G(5) of the I.T. Act as like Sec 13(1)(b) of the Act, the aforesaid section 80G(5) also excludes religious trust from its ambit and therefore the appellant trust is not recognize w/s 80G(5) of the Act.

The aforesaid reply filed before the Ld. AO is reproduced hereunder:-

युग निर्माण योजना विस्वाय ट्रस्ट
व्यक्तिगत आयकर विभाग, अग्रा-2059F
आयकर और सहायक कर अधिनियम की अनुसूची के अन्तर्गत

Form - 29
Part 2-A

Before :- The Honble Deputy Commissioner of Income Tax, Exemptions, Circle Ghaziabad
Room No. 105, CUD Complex - II, 1st Floor, Kama Krishna Nagar, Ghaziabad

Applicant :- Yug Nirman Vistar Trust,
Yugya Vistar Bhawan, Gayatri Foundation, Jaleshchaura, Mathura
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In the matter of :- The ITO, DCIT(C)/KRM/2016-17/1523 dt. 04.11.2016
Subj:- Your Show Cause Notice regarding benefit u/s 11.

Respected Madam,

In response to your show cause notice dated 04.11.2016, it is most respectfully and respectfully submitted as under that :-

(1). Yug Nirman Vistar Trust, has been created or established solely for religious activities which is irrespective of caste, community, colour and gender as has been set out in the Trust Deed. And on that basis registration was validly granted under section 12 A of the IT Act. Section 13(1)(b) of the Income Tax Act reads as under:-

Section 13- Section 13 not to apply in certain cases.

1) Nothing contained in section 11 (or section 12) shall operate so as to exclude from the total income of the previous year of the person in receipt thereof-

2) In the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income received if the trust or institution is created or established for the benefit of any particular religious community or caste;

Provided that section 13(1)(b) above, is not applicable to Religious Trust. It is applicable only to the Charitable Trust / Institution.

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Essential main conditions for exemption u/s 11 are -

1. Property should be held under Trust or other legal obligation.
2. Property should be held for Charitable or Religious purposes.
3. In the case of a trust created on or after April 1, 1962 ;

Further Conditions are-

- (a) In the case of Charitable Trust – It should not be created for the benefit of any particular religious community or caste;
- (b) No part of the Income should ensure directly or indirectly for the benefit of the settlor or other specified persons.
- (c) The property should be held wholly for charitable purposes.

From the above position of the provision under the Act, it is very much clear that specific conditions of any particular religious community or caste, is applicable to Charitable Trust only and not for the Religious Trust, therefore, invoking of this provision is outside the purview of provisions applicable to Religious trust.

(2). Reliance is placed on the following judgments -

1. Hon'ble Madhya Pradesh High Court in the case of CIT vs. Dawoodi Bohara Jamat reported in 317 ITR 342(MP) has held that the provisions of Section 13(1)(b) are not applicable to a religious trust, but applied only to a charitable trust.
2. Hon'ble Gujarat High Court in the case of CIT vs. Barkate Sifyah Society reported in 213 ITR 492 has held that the trust which is both a religious and a charitable trust is not covered by provisions of Section 13(1)(b) of the Income Tax Act, 1961 and such a trust would not loose the benefit of exemption u/s 11 of the Income Tax Act, 1961.

Copies of both the judgments are enclosed herewith for your kind perusal and ready reference.

- (3). Without prejudice to the above submission, it is further respectfully submitted that Hon'ble Madras High Court, in the case of Dravidic Kazhakam, V/s. Chairman, United India Insurance Company Limited reported in Law Weekly Report 1992-1 LW Volume No 109 dtd. 18th January, 1992 Part -1 has held that -

"Gayatri Mantram being the key to vedic wisdom is supposed to purify, rescue or protect the chanter with a prayer for final liberation-Universal prayer-Vedas do not preach any religion, nor are concerned with the propagating religion."

Copy of the judgment is enclosed herewith for your kind perusal and ready reference.

It would be relevant to mention some more lines from the judgment as under that :-

The country is said to consist of people having faith in many religion are religious as well as rationalistic concept of human life and scientific pursuit of knowledge of while referring of Articles 14 and 25 of the Constitution of India, it is stated that the members of the Constituent Assembly thought fit to not only secure to the citizen

R.D.

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equality before law but also equal protection of the law and freedom of conscience and the right to profess, practice and propagate religion.

.....On page two of the judgment, Gayatri mantra is printed as here under- "Gayatri Mantra" " Om Bhurbhuvassuvaha Tatsavitur Varenyam Bhargo Devasya Dheemahi Dhiyoyonah Prachodayat" This mantra should be chanted at least 5 times thrice a day-at dawn, at noon, and at dusk facing the Sun. We remember the five lines of the Mantra as above, and when chanting we chant each line separately with a pause before the next line.

"On page three the " following printed matter appears: "Here are two interesting English translations of Gayatri mantra.

1. Translation by Sir William Jones in 1817" *Let us adore the supremacy of that divine Sun, the God-head who illuminates all, who re-creates all, from whom all proceed, to whom must return, whom we invoke to direct our understandings aright in our progress towards His holy seat".*
2. *"I meditate on the divine effulgence of my adorable Lord, who is known as transcendental one, who is the propeller and sustainer of the three Worlds, who is to be sought after, worshipped and realised. May He enlighten our intellect and bless us with wisdom".*

In view of the above submissions it is very much clear that-

- A. The very basis of the show cause notice i.e. Provisions of section 13(1)(b), does not apply in our case being Religious Trust. Hence, there is no case against the applicant Trust for withdrawal of exemption and the applicant Trust is very much eligible for the exemption u/s 11 of the Act.
Without prejudice to A. above, -
- B. Religious activities which is irrespective of caste,community,colour and gender as has been set out in the Trust Deed, on that very basis registration was validly granted under section 12 A of the IT Act.
- C. To propagate the teaching of Gayatri Mantra as per Sanatan Dharma is not an act of, and / or for the benefit of any Religious community or caste but *Gayatri Mantram being the key to vedic wisdom is supposed to purify, rescue or protect the chanter with a prayer for final liberation-Universal prayer-Vedas do not preach any religion, nor are concerned with the propagating religion."*

Prayer : In view of the above submissions, it is submitted that the proceedings initiated and show cause notice issued to withdraw the exemption u/s 11 of Income Tax Act is perverse. The benefit of section 11 is available to our trust;

Facts of the judgments of the Higher Courts is similar to the fact of the Assessee's case;

R.D.

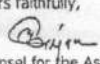


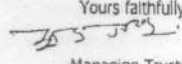
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Your honour is therefore ,prayed to kindly withdraw your show case notice as issued and accept the Income Tax Return filed by the Assessee Trust, allowing the exemption u/s 11 of the Act, for which Act of kindness the Assessee shall be grateful . .

Thanking you
Encls. As Above

Yours faithfully,

Counsel for the Assessee

Yours faithfully,

Managing Trustee
Yug Nirman Vistar Trust, Mathura
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6. Attention is invited to Para 2 & 3 of the Assessment order in which the Ld. AO has duly acknowledged that the appellant is a Religious Trust duly registered under 12A vide CIT, Agra order dt. 01.05.2009. After taking into account the fact of the appellant being religious trust which fact is never disputed, the Ld. AO grossly misdirected herself in invoking Sec. 13(1)(b) which applies only to a charitable trust/institution and thus the show cause notice issued on this point was totally arbitrary and bad in law.

7. After aforesaid Para 2 & 3 in the assessment order, the Ld. AO reproduced the text of show cause notice dt. 08.11.2016 at Para No. 4 of the assessment order. In Para 5 of the assessment order, the provisions of Sec 13(1)(b) are reproduced which itself provides for the applicability of Sec. 13(1)(b) to charitable trust/institution only and not to any religious trust.

"Sec 13. (1) Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

(u) xxxxxxx
(b) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit of any particular religious community or caste;"

8. Attention is invited to later part of Para 5 of the Assessment order which seems to be some general commentary from some Book/Internet. No where the reply dt. 28.11.2016 filed by the appellant has been discussed in the assessment order. On the contrary, the Ld. AO proceeded to reject the exemption u/s 11/12A of the Act and added Rs 3,16,43,346/- as PGBP taxable income u/s 164(2) of the Act, which is grossly arbitrary, illegal, beyond jurisdiction and abuse of the provisions of law.

9. The plea of the appellant assessee is that it is an admitted fact that the appellant is a religious trust from its very inception and has been assessed regularly and assessment order passed in its capacity as a religious trust. It is a plain law that the provisions of Sec. 13(1)(b) are not applicable to a religious trust, but only to a charitable trust/institution. It is quite obvious that any religious trust will naturally be carrying on its activities which mainly will be followed by specific religious community e.g. the activities of a temple or Gurudwara will



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not appeal and will not be followed by Muslim/Christian community. Likewise, the activities of any Masjid/Church may not appeal and may not be followed by Hindu Community. The very idea of religious trust is to propogate and teach religion (Dharm) to the religious community which follows and believe in the religion and therefore the legislature has deliberately excluded the religious trust from the ambit of Sec 13(1)(b) of the Act.

10. It is reiterated that the appellant is a religious trust but at the same time the appellant is well known for its scientific approach towards the concept of religion (Dharm) whereby it propogate and teaches the virtuous conduct of life as per scriptures of Indian Philosophy e.g. Vedas and Upanishads. The teachings of Vedas and Upanishads are not directed to any particular community but it is addressed to the entire mankind and it is to uplift the life of every human being that the ideal of the trust Pandit Sriram Sharma Acharya devoted his life. It is his teachings of scriptures converted into simple language of today which literature the appellant trust propogate and teach to the general public. On the part of appellant trust there is no bar/restriction on any human being belonging to any community or region to subscribe and participate in the activities of the appellant trust. Anyone believing in the science of Vedas/Upanishads/Gayatri is welcome to the activities of the appellant trust. Thus, the appellant Trust on its own never restrict its activities to any religious community but at the same time, it is also true that people of all the religious community may not follow/participate in the activities of the appellant trust.

11. The Ld. AO pointed out nothing on facts as to how the activities of the appellant religious trust are covered u/s 13(1)(b) which is applicable to charitable trust only and further on the basis of what enquiry or material the Ld. AO believed that the activities of the appellant trust are charitable in her view and then further on what basis she came to believe that such charitable activities are restricted or reserved only for a particular religious community. Without disputing the status of religious trust, the Ld. AO arbitrary mis-directed herself and simply concluded that Sec. 13(1)(b) is applicable with inherent presumption as if the activities are charitable in nature and further based on conjectures and surmises, such presumed charitable activities are restricted to a specific religious community. Thus, the conclusion of the Ld. AO is based purely on conjectures and surmises driving inference again based on such conjectures and surmises and thus bad in law and beyond jurisdiction and therefore liable to be quashed.

12. Not only it is the past years that the activities of the appellant religious trust has been assessed and exemption allowed u/s 11 of the Act, in subsequent year also i.e. A.Y. 2015-16, the same question was considered in the assessment proceedings for A.Y. 2015-16 and exemption u/s 11 was duly allowed. It is to be noted that in view of the adverse assessment order for A.Y. 2014-15, the Ld. AO incharge of AY 2015-16 sought the direction of Ld. Addl. CIT u/s 144A of the I.T. Act and the Ld. Addl. CIT after considering the reply of the appellant Trust allowed the benefits of Sec 11/12A and accordingly assessment order for A.Y.2015-16 was passed on 12.12.2017 duly granting exemption u/s 11/12A of the Act. The copy of directions dt. 17.11.2017 u/s 144A and the assessment order dt. 12.12.2017 u/s 143(3) are placed at Page No. 98-106 of PB.

13. The appellant trust rely on following case laws in support of above said submissions

S. No.	Citation	Case Law	Date of Judgement
1	(2009) 317 ITR 342 (MP)	Commissioner of Income-tax, Ujjain v. Dawoodi Bohara Jamat	22.06.2009
2	(2014) 364 ITR 31 (SC)	Commissioner of Income tax, Ujjain v.	20.02.2014



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3	[2015] 62 taxmann.com 358 (Delhi HC)	Dawoodi Bohara Jamat Commissioner of Income-tax (Exemption) V. Bhagwan Shree Laxmi Naraindham Trust	07.09.2015
4	[2006] 156 taxman 19 (GUJ.)	Commissioner of Income-tax v. Chandra Charitable Trust	31.07.2006
5	[1995] 78 Taxman 6 (GUJ)	Commissioner of Income-tax v. Barkate Saifiyah Society	03.11.1993
6	(2017) 86 Taxmann.com 44 (DelhiHC)	Commissioner of Income-tax (Exemptions) v. Indian Society of the Church of Jesus Christ of Latter Day Saints	07.09.2017
7	(1997) 227 ITR 578 (SC)	Upper Ganges Sugar Mills Ltd v. Commissioner of Income-tax	04.08.1997
8	(2012) 25 Taxmann.com 255 (ITAT-TM-AGRA)	Ramanujam Spiritual Public Charitable Trust v. Commissioner of Income-tax-I, Amritsar	08.06.2012
9	(2014) 44 TAXMANN.COM 446 (AGRA-TRIB)	Yug Chetna Parmarth Trust v. Commissioner of Income-tax-I, Agra	14.02.2014
10	(2017) 81 taxmann.com 380 (ITAT-Chennai)	Christian Literature Society v. Joint Commissioner of Income-tax, OSD (Exemptions)-II, Chennai	21.04.2017
9	[2008] 171 Taxman 182 (Andhra Pradesh)	Arsha Vijnana Trust v. D.P. Sharma, IRS, Director of Income-tax (Exemptions)	14.08.2007
10	[1992] 60 Taxman 248 (SC)	Radhasoami Satsang v. Commissioner of Income-tax	15.11.1991
11	[2013] 38 taxmann.com 100 (SC)	Commissioner of Income-tax v. Excel Industries Ltd.	08.10.2013

14. Prayer:- Your honors is kindly prayed to consider the above pleas and submissions of the appellant trust alongwith documentary evidence relied upon as per Paper Book and allow the instant appeal and delete the illegal addition of Rs 3,16,43,346/- as per assessment order dt. 29.12.2016 for A.Y. 2014-15."

6. I have carefully considered the appellant's submissions, facts of the case and the legal position in this regard.

6.1 I notice that the applicability of the provisions of section 13(1)(b) in the instant case has been challenged by the appellant. The undisputed fact is that it was formed on 14.01.2009 and on the basis of its trust deed, registration was granted to it w.e.f. 14.01.2009 under the provisions of section 12A through the order of CIT vide letter dated 01.05.2009. As per the facts available on record, this registration has not been revoked by the CIT till date. The assessment orders passed under section 143(3) for A.Y. 2012-13 and 2013-14 have not denied the

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exemption under section 11 to the appellant. Also, no order under the provisions of section 12AA(4) of the Act is on record.

The A.O. has given a finding that the appellant was carrying out religious activities and working for a particular religion and for a particular religious community and based on that finding the exemption under section 11 has been denied by her.

6.2 A perusal of the appellant's trust deed indicates that its objects are *primarily religious in nature and certainly not exclusively charitable in nature*. Hence, in my considered opinion, the appellant trust cannot be categorized as a 'trust for charitable purposes or a charitable institution'. Further, a reading of the trust deed reveals that there is no bar or restriction on any human being belonging to any community or region to subscribe and participate in its activities. Besides, I find that judicial precedents cited by the appellant support its arguments that provisions of section 13(1)(b) are not applicable to it. The ruling of Hon'ble Gujarat High Court in the case of Commissioner of Income-tax v. Barkate Saifiyah Society (supra) has been given on similar facts where the objects of the trust were partly religious and partly charitable in nature. Hon'ble High Court held in that case that section 13(1)(b) applies only to trusts which are purely for charitable purposes and the assessee-trust, being charitable as well as religious in nature, it was entitled to get exemption under section 11.

Relevant extract of the same is reproduced below:-

"17. From the aforesaid decision it can be held that if the trusts are partly religious and partly charitable, so long as no part of the income or corpus can be utilised for a purpose which is not either charitable or religious, exemption under section 11(1)(a) will be applicable to the assessee.

18. Keeping in mind the aforesaid discussion, now we will refer to the relevant portion of section 13 which carves out an exception to the aforesaid provisions. It reads as under :

"Section 11 not to apply in certain cases. - (1) Nothing contained in section 11 and section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof :-

(a) any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public;

(b) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit of any particular religious community or caste;

(c) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof - (i) if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income

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enures, or (ii) if any part of such income or any property of the trust or institution (whenever created or established) is during the previous year used or applied, directly or indirectly for the benefit of any person referred to in sub-section (3);

.....
(d) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof, if for any period during the previous year -

(i) any funds of the trust or institution are invested or deposited after the 28th day of February, 1983, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; or

(ii) any funds of the trust or institution invested or deposited before the 1st day of March, 1983, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983; or

(iii) any shares in a company (not being a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or a corporation established by or under a Central, State or Provincial Act) are held by the trust or institution after the 30th day of November, 1983."

19. By reading the aforesaid section, it is clear that it carves out an exception to section 11 or 12 by providing that in those cases which are covered by clauses (a), (b), (c) and (d), the provisions of section 11 or 12 shall not operate. Broadly speaking, it is divided into three categories and exception is carved out in the case of private religious trusts, charitable trusts and charitable or religious trusts if the conditions mentioned in clauses (a), (b), (c) and (d) are satisfied. Firstly, any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public is not to be excluded as provided under section 11. That means the benefit of section 11 would not be given to a trust which is a private religious trust which does not enure for the benefit of the public (as per clause (5)). Secondly, any income of a trust for charitable institution is created or established after the commencement of Income-tax Act (sic). In each case the authority is required to find out whether the trust for charitable purposes is established for the benefit of a particular religious community or caste. If it is so established, then the provisions of section 11 would not be applicable. Thirdly, clauses (c) and (d) carve out an exception in the case of a trust for charitable or religious purposes or a charitable or religious institution. It provides for certain cases in which any income thereof enures, or is used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (3). In clauses (c) and (d) the Legislature wanted to include trusts for charitable and religious purposes, and this is specifically provided by using the phrase "trust for charitable or religious purposes." In clauses (c) and (d), the Legislation has used the phrase trust for charitable purposes or religious institution. It does not deal with a trust for religious purposes. It only deals with a trust for charitable or charitable institutions which are established for giving relief to the poor or medical relief or for education of any particular religious community or caste. Clauses (c) and (d) would be applicable to a trust which is either for charitable purposes or

religious purposes or partly charitable purposes and partly religious. Hence it can be stated that if a charitable trust is established only for the benefit of any particular religious community, then the provisions of section 11 would not be applicable. But in the case of a trust or an institution for religious purposes wherein certain activities can be termed as charitable activities for the benefit of any particular religious community or caste, clause (b) would not be applicable.”

6.3 Having considered the above facts and legal interpretation of the relevant provisions of the Act, I am inclined to accept the appellant’s argument that it is eligible to claim exemption under the provisions of section 11 of the Act. Therefore, addition of Rs. 3,16,43,346/- to the appellant’s returned income is deleted and grounds no. 1, 2, 3, 4, 5 and 6 are allowed accordingly.

Ground no. 7, being general in nature, is not being adjudicated upon.”

(B) The present appeal has been filed by Revenue against the aforesaid impugned appellate order of the Ld. CIT(A). In the course of the appellate proceedings in Income Tax Appellate Tribunal (“ITAT for short); the following documents were filed from the assessee’s side:

Sl. No.	Particulars
1.	Copy of assessment order dated 28.11.2019 for AY 2017-18
2.	Copy of assessment order dated 16.02.2021 for AY 2018-19
3.	Copy of ITR and Audited Balance sheet for AY 2014-15
4.	Copy of Trust Deed along with English translation
5.	Copy of Registration Certificate u/s 12A dt.01.05.2009
6.	Copy of Assessment Order for AY 2012-13

7.	Copy of Assessment Order for AY 2013-14
8.	Copy of Assessment Order for AY 2015-16 along with direction u/s 144A of the Act by Addl. CIT, Ghaziabad
9.	Copy of Written Submissions filed before CIT(A)
10.	Copy of Reply filed dt.25.07.2016 before AO
11.	Copy of Show Cause Notice dt.04.11.2016/08.11.2016 issued by AO
12.	Copy of Reply to Show Cause Notice before AO filed dt. 28.11.2016
13.	Copy of Reply filed dt. 27.04.2009 before CIT, Agra for registration u/s 12A as Public Religious Trust

(C) At the time of hearing before us, the Ld. Senior Departmental Representative (“Sr. DR” for short) for Revenue relied on the order of the Assessing Officer. The Ld. Counsel for the assessee relied on the aforesaid documents mentioned in foregoing paragraph No. B.1 and supported the impugned appellate order of the Ld. CIT(A). He further drew our attention to the fact that benefit of exemption u/s 11 read with section 12A of Income Tax Act has been allowed by the Assessing Officer, on identical facts and circumstances, in assessment orders for Assessment Years 2012-13, 2013-14, 2015-16, 2017-18 and 2018-19. He further submitted that, on identical facts and circumstances, the benefit of exemption u/s 11 read with section 12A of Income Tax Act has never been denied by Revenue to the assessee in any year except Assessment

Year 2014-15, to which the present appeal pertains. He further submitted that the registration u/s 12A of Income Tax Act granted by the Ld. CIT has never been revoked or cancelled; and further, that registration u/s 12A of Income Tax Act has remained in force continuously since the grant of registration vide order dated 01.05.2009 of the Ld. CIT, Agra; implying that the assessee's claim of being a charitable trust has consistently been accepted by Revenue. In view of these submissions and contentions, the Ld. Counsel for assessee submitted that the present appeal filed by Revenue is devoid of any merit and should be dismissed.

(C.1) The Ld. Senior Departmental Representative ("Sr. DR" for short) did not controvert the aforesaid submissions and contentions of the Ld. Counsel for the assessee.

(D) We have heard both sides. We have perused the materials on record. Relevant facts are not in dispute. It is not in dispute that registration of the assessee trust u/s 12A of Income Tax Act has remained in force continuously since the grant of registration vide aforesaid order dated 01.05.2009 implying that charitable character of the assessee has been accepted by Revenue continuously. It is

not in dispute that exemption u/s 11 read with section 12A of Income Tax Act has been never denied to the assessee, in identical facts and circumstances, except in Assessment Year 2014-15 (to which this appeal pertains). It is also not in dispute that assessment orders have been passed for Assessment Year 2012-13, 2013-14, 2015-16, 2017-18 and 2018-19 granting the benefit of exemption to the assessee u/s 11 read with section 12A of Income Tax Act. We are of the view that the impugned order of the Ld. CIT(A) is a just and fair order in accordance with law, having regard to facts and circumstances of the case. Neither side has brought any materials for our consideration to persuade us to interfere with the impugned order of the Ld. CIT(A). In view of the foregoing, and in the specific facts and circumstances of the case before us, we decline to interfere with the impugned order of the Ld. CIT(A).

(E) In the result, this appeal filed of the Revenue is accordingly dismissed.

Our decision was already pronounced orally on 19.05.2022 in Open Court, in the presence of representatives of

both sides, after conclusion of the hearing. This written order is now signed today on 24.05.2022.

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 24.05.2022

Pk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI