

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(104)

**ITA-133-2021 (O&M)
Decided on : 20.10.2023**

Commissioner of Income Tax (Exemptions) Chandigarh

.....Appellant(s)

Versus

M/s Vishav Manav Ruhani Kendra

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Varun Issar, Junior Standing Counsel
for the appellant.

G.S. Sandhawalia, J. (Oral)

The present appeal filed under Section 260A of the Income Tax Act, 1961 (for short '1961 Act') is directed against the order of the Income Tax Appellate Tribunal, Chandigarh Bench 'B' passed in ITA No.899/Chd/2019 dated 21.05.2020 (Annexure A-3).

2. Counsel for the appellant has pressed the following substantial question of law:-

“(ii) Whether on the facts and in the circumstances of the case, the action of the authorities below is right in the law in allowing the appeal of the assessee by ignoring the fact that the donations amounting to Rs.13,18,82,040/- were not corpus donations as the same were received without any specific directions and the assessee got its receipts marked with stamps 'Bhumi Kharidane Hetu Dhan Seva' which clearly substantiate that the donor had no knowledge and intent to be treated their donations as corpus donation?

3. The Commissioner of Income Tax while allowing the appeal of the M/s Visha Manav Ruhani Kendra had noticed that the donation in question

had been received for the purpose of purchase of land for setting up Manav Seva Kendras across the country. The said land was to be used for the construction of New Old Age Homes, Hospitals/Dispensaries and branches of the appellant-society were informed about raising of corpus fund for the land in the branches and donation was to be received on monthly basis for which a single monthly receipt was to be issued by the Head Office. It was also noticed by the Appellate Authority-Commissioner that the appellant was maintaining separate accounts of the corpus donation receipt and general donations and the audited books of account showed the bifurcation. Resultantly, a finding was recorded that donation for land were deposited in separate bank accounts designated for this purpose and FDRs were made to maintain the corpus fund which was utilized for the purchase of land and assets in subsequent years through cheques and drafts. Resultantly, keeping in view the fact that the appellant was maintaining receipt books for the general and corpus donation and that receipt books used for corpus donation had been marked as stamped of '*Bhoomi Kharidaney Hetu Dhan Sewa*' and for other receipts no purpose had been specified. It was, thus, noticed that the Assessing Officer had chosen to reproduce confirmations regarding general donation received from two persons while ignoring the confirmations received from the others who had confirmed that the donation was made for the purpose of purchase of land. It was further noticed that the Assessing Officer had given all the details regarding the name, address and mobile numbers of donors who had chosen to ignore to mention that the amounts received were shown under the column heading '*Bhoomi Sewa*'.

4. The factum of receipts was noticed which were issued by the branches at various places separately i.e. for Derabassi, Kurali etc. and had been produced before the Assessing Officer. It was also noticed that there was a judicial view regarding the decision of Tribunal to that extent in **Shree Mahadevi Tirath Sharda Ma Seva Sangh Vs. Income Tax Officer, (2010) 29 CCH 68**. It was further recorded by the Appellate Authority that the appellant was able to give particulars of persons who had donated the amounts and the donors were never examined by the Assessing Officer to prove otherwise and there was nothing to show that the specific direction to the donor had to be in writing as to how the donations had to be utilized. Resultantly, it was held that there was a mere suspicion and the denial of the amount of ₹13,18,82,040/- was to be part of the corpus donations of the appellant society and was to be treated as exempted under Section 11(1)(d) of the 1961 Act, and the appeal was, accordingly, allowed.

5. The Tribunal had also noticed the factual finding recorded by the Appellate Authority, CIT while dismissing the appeal and upholding the order. The finding recorded by the Tribunal reads as under:-

“10. On going through the above we find that the Ld. CIT(A) has perused the records of the assessee produced before him and on perusing the same had given a categorical finding of fact that the corpus donations received were received with the specific direction as such. The Ld. CIT(A), we find, has noted that there were separate receipt books for collecting the corpus donations which was marked with the stamp "Bhumi Kharidane Hetu Dhan Seva" and all donations collected under these receipts had been categorized as corpus donations by the assessee, which amount was kept in a separate bank account separate from the general donation and also that FDRS had been made from the same which were subsequently

used in subsequent years for purchase of land through issuance of cheques and drafts. The Ld.CIT(A) has also noted the fact that the assessee had maintained separate record of general donation and corpus donation and that its accounts were duly audited. The Ld.CIT(A), we find, has further noted that the observation of the AO that there were no specific directions by the donor for treating the donation as corpus donation, was based on mis-appreciation of facts since the receipts referred to by the AO for basing his observation were relating to general donations and not corpus and donations.”

6. It is, thus, apparent that factual matrix has been thrashed out and, therefore, we are of the considered opinion that in the facts and circumstances no substantial question of law arises as pressed by the counsel for the appellant. Accordingly, there is no merit in the present appeal and the same is dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

20.10.2023
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No