

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:3372/CHNY/2025

निर्धारण वर्ष/Assessment Year: 2010-11

**The Deputy Commissioner of
Income Tax (Exemptions),**
Chennai Circle,
Chennai.

**ICICI Foundation for
Inclusive Growth,**
ICICI Bank, B-Wing, 3rd Floor,
Mafatlal Chambers,
Nr. Bawla Ma, Delisle Road
S.O Mumbai,
Mumbai – 400 013

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Ms. T.Mythili, JCIT

(Through Virtual Mode)

प्रत्यर्थी की ओर से/Respondent by

: Shri S. Sriram, Advocate

(Through Virtual Mode)

सुनवाई की तारीख/Date of Hearing

: 23.03.2026

घोषणा की तारीख/Date of Pronouncement

: 25.03.2026

आदेश/ ORDER

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed by the Revenue is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 04.09.2025 passed u/s.250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2010-11.

2. The grounds raised by the Revenue reads as follows:-

1. The Ld. CIT(A) erred in law and on facts in allowing exemption under Section 11(1)(d) of the Income-tax Act, 1961 on the alleged corpus donations despite the absence of any enabling clause in the Trust Deed that allows the Trust to collect corpus donations.

2. The Ld. CIT(A) failed to appreciate that the mere mention of the word "corpus" in the donor letters - particularly when the donors are related parties - is not sufficient to qualify the donations for exemption under Section 11(1)(d).

3. The Ld. CIT(A) erred in ignoring the fact that the Trust Deed is silent on the receipt, management, or utilization of corpus donations, thereby making such donations ineligible for exemption.

4. The Ld. CIT(A) overlooked the fact that the assessee had utilized the so-called corpus donations to meet revenue shortfalls in subsequent years, which further indicates that the donations were not genuinely intended for corpus purposes.

3. Brief facts of the case are as follows:- The respondent- assessee, ICICI Foundation for Inclusive Growth, is a charitable trust established on 04.01.2008 and registered u/s.12AA of the Act. The assessee is also approved u/s.80G of the Act. Assessee is engaged in carrying on activities of general public utility. During the previous year relevant to Assessment Year 2010-11, the assessee carried out various charitable activities including primary healthcare initiatives such as the City Initiative for Newborn Health (CINH) in Mumbai, implementation of quality education programmes in Rajasthan in collaboration with Government bodies and NGOs, providing financial assistance to institutions for

improving housing and infrastructure, and supporting civil society initiatives through fellowship programmes.

4. For the assessment year under consideration namely AY 2010-11, the assessee received income of Rs.53,10,997/- from property held under trust, comprising grants, donations and interest income, and also received corpus donations amounting to Rs.23,61,94,730/-. The return of income was filed on 27.09.2010 and processed u/s.143(1) of the Act. Subsequently, based on observations made during assessment proceedings for AY 2014-15, the AO reopened the assessment for the impugned year vide notice dated 31.03.2017 on the ground that the trust deed did not contain any specific clause permitting receipt of corpus donations.

5. The AO, while completing the reassessment u/s.143(3) read with section 147 of the Act vide order dated 29.12.2017, held that corpus donations are not eligible for exemption u/s.11(1)(d) of the Act in the absence of an enabling clause in the trust deed and accordingly treated the same as income u/s.11(1)(a) of the Act. Further, the AO held that the assessee had failed to comply with the requirements of Explanation 2 to section 11(1) of the Act and worked out a shortfall in application of income amounting to Rs.7,66,79,821/-, which was brought to tax.

6. Aggrieved by the assessment order dated 29.12.2017, the assessee preferred an appeal before the First Appellate Authority (FAA). The FAA, vide impugned order dated 04.09.2025 allowed the appeal by holding that corpus donations received with specific direction cannot be treated as income of the trust and that the AO had not brought any material on record to show that such funds were not utilized for the objects of the trust. Accordingly, the addition made by the AO was deleted.

7. Against the order of FAA, the Revenue is in appeal before the Tribunal. The Ld.DR supported the order of the AO and relied on the grounds raised by the Revenue.

8. The Ld. AR for the assessee strongly supported the order of the FAA and submitted that the AO has erred both on facts and in law in treating corpus donations as taxable income. It was submitted that the assessee had received Rs.53,10,997/- as income from property held under trust, which has been accepted by the AO, and Rs.23,61,94,730/- as corpus contributions from ICICI Group companies, which were accompanied by specific directions from the donors to form part of the corpus. The Ld. AR contended that as per section 11(1)(d) of the Act, such corpus

donations are exempt and the AO erred in denying exemption merely on the ground that the trust deed does not contain an explicit clause permitting receipt of corpus donations. It was submitted that the law places emphasis on the intention of the donor and not on the contents of the trust deed. Reliance was placed on judicial precedents to contend that the character of a donation is determined solely by the donor's direction and neither the AO nor the assessee can alter such character.

9. The Ld. AR further submitted that the donor letters clearly indicate that the contributions were towards corpus and merely because a standard format was used stating that funds would be utilized in accordance with the trust deed, the same does not dilute the specific direction of the donor. It was also contended that the AO has not disputed the genuineness of the donations nor their application towards charitable objects.

10. The Ld. AR submitted that the AO erred in presuming that the assessee had accepted the corpus donations as income in AY 2014-15. It was clarified that such a stand was only because assessee trust for AY 2014-15, had applied towards objects of the trust far exceeding the gross receipt. Without prejudice, it was submitted that even if corpus donations are treated as income, the

assessee has applied substantial funds towards its objects amounting to Rs.12,86,00,047/- and any shortfall has been duly explained by filing Form No. 9A during the course of assessment proceedings. Therefore, the requirement of application of income stands satisfied.

11. The Ld. AR further submitted that the provisions relating to accumulation have been duly complied with, as Form No. 9A was filed on 28.12.2017 before completion of reassessment proceedings, and therefore, the benefit of accumulation cannot be denied. It was also submitted that in subsequent assessment years, including AY 2018-19, the AO himself has accepted similar corpus donations as exempt u/s.11(1)(d) of the Act, and therefore, the Revenue cannot take inconsistent stands in different years on identical facts.

12. Without prejudice, the Ld. AR by placing reliance on Rule 27 of the Income-tax (Appellate Tribunal) Rules, 1963, challenged the validity of reopening of assessment. It was submitted that the reopening was based solely on the trust deed, which was already on record, and hence there was no fresh tangible material, rendering the reopening as a mere change of opinion. It was further submitted that the mandatory procedure laid down by the

Hon'ble Supreme Court in the case of GKN Driveshafts (India) Ltd. reported in [2003] 259 ITR 19 (SC) was not followed, as no speaking order was passed disposing of the objections raised by the assessee. The Ld. AR also contended that no notice u/s.143(2) was issued during the reassessment proceedings, which vitiates the entire assessment. In view of the above submissions, the Ld. AR prayed that the order of the FAA be upheld and the appeal filed by the Revenue be dismissed.

13. We have heard the rival submissions and perused the material available on record. The primary issue arising for our consideration is whether the corpus donations received by the assessee are liable to be treated as income in the absence of an explicit clause in the trust deed and whether the AO was justified in making addition on account of alleged shortfall in application of income. The AO while reopening the assessment for relevant year has relied on the assessment order for AY 2014-15. On perusal of the assessment order for AY 2014-15, we notice that the assessee trust had actually applied toward objects of trust far exceeding the gross receipts (which included corpus donation). Consequently, there was no tax liability for the assessee trust for AY 2014-15 (Gross receipts was Rs.26,25,96,874/- whereas the actual application of income was Rs.31,12,94,534/-). Since there was no

tax liability on assessee, the treatment of corpus donation as income for AY 2014-15 was of no consequence. Hence the facts for AY 2014-15 does not have application for the relevant assessment year.

14. On perusal of the provisions of section 11(1)(d) of the Act, it is evident that voluntary contributions made with a specific direction that they shall form part of the corpus of the trust are not to be treated as income of the trust. Thus, the determinative factor is the specific direction of the donor and not the presence or absence of an enabling clause in the trust deed. In the present case, the assessee has placed on record donor letters which clearly indicate that the contributions were made towards the corpus of the trust. The AO has not disputed the genuineness of these donations nor has he brought any material on record to demonstrate that such funds were not utilized in accordance with the objects of the trust.

15. The reasoning adopted by the AO that in the absence of a specific clause in the trust deed, corpus donations cannot be accepted as such, is not in consonance with the settled position of law. The character of a donation depends upon the intention of the donor, and once such intention is clearly expressed, the same

cannot be disregarded. Therefore, we find no infirmity in the conclusion of the FAA that corpus donations received by the assessee are not liable to be treated as income u/s.11(1)(a) of the Act.

16. Further, we note that the AO has made an addition on account of alleged shortfall in application of income by invoking Explanation 2 to section 11(1) of the Act. However, once the corpus donations are excluded from the ambit of income, the question of computing any shortfall on that basis does not arise. Even otherwise, we find merit in the contention of the assessee that Form No. 9A was filed during the course of assessment proceedings before completion of assessment, and therefore, the requirement of law stands duly complied with. Accordingly, the benefit of accumulation cannot be denied on technical grounds.

17. We also find force in the submission of the assessee regarding consistency. It is an admitted position that in subsequent assessment years, the Revenue has accepted similar corpus donations as exempt u/s.11(1)(d) of the Act. In the absence of any change in facts or law, the Revenue is not justified in taking a contrary view in the year under consideration.

18. As regards the legal ground raised by the assessee under Rule 27 challenging the validity of reassessment proceedings, though the same goes to the root of the matter, since we have upheld the order of the FAA on merits, the adjudication of the legal issue is rendered academic and does not call for separate adjudication. In view of the foregoing, we do not find any reason to interfere with the order of the FAA. Accordingly, the same is upheld and the grounds raised by the Revenue are rejected.

19. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 25th March, 2026 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 25th March, 2026

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

By Order