

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA (DB) BENCH, AGRA**

**BEFORE : SHRI M BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 458/Agr/2025
Assessment Year: 2014-15**

Shri 1008 Digambar Jain Atishay Kshetra Papoura Ji, Tikamgarh- 472001	Vs.	ITO-Exemption Ward, Aaykar Bhawan, City Centre, Gwalior- 474001
PAN : AAOTS5937L		
(Appellant)		(Respondent)

Assessee by	Shri Milind Wadhwani, CA
Department by	Shri Anil Kumar, Sr (DR)

Date of hearing	18.05.2026
Date of pronouncement	22.06.2026

ORDER

PER: SUNIL KUMAR SINGH, J.M.

This appeal is directed against the impugned order dated 05.08.2025 passed in appeal No CIT(A), Bhopal- 2/10518/2019-20 by the Id. Commissioner of Income Tax, Addl/JCIT(A)-1 Nashik (hereinafter referred to as the "CIT(A) u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") for the A.Y. 2017-18, wherein Id CIT(A) has dismissed assessee's appeal.

2. (i) The brief facts state that the appellant assessee is a religious/charitable trust registered under MP Public Trust Act, vide Regn No. 8/113/(1)1,71,-72, dated 15.07.2076, appellant trust was also registered u/s 12AA of the Income Tax Act, vide Regn no. CIT Exemption

Bhopal/12AA/2018-19/A/10218 dated 26.11.2018 by the Commissioner of Income Tax, Bhopal, (applicable from A.Y. 2019-20).

(ii) The assessee trust filed its return of income for A.Y. 2017-18 on 31.03.2018, declaring total income at Rs. 2,01,080/-. The case was selected through CASS for complete scrutiny mainly to examine the issue of cash deposit during the demonetization period and large deduction claimed u/s 57 of the Act. Statutory notices u/s 143(2) and 142(1) of the Act were issued and served upon the assessee, calling for certain details in respect of the nature and source of huge cash deposits in bank. Assessee submitted the required details. The assessing officer noted that a cash of Rs. 43,00,000/- was deposited on 13.11.2016 in assessee's Central Bank of India A/C no. 1489004580 and Rs 47,00,000/- was deposited on 12.11.2016 in assessee's Sardar Singh Nagrik Sahkari Bank Mydt, A/C no. 178, Tikamgarh in demonetized notes. Assessee explained the source of cash deposits as donations received by the trust from various donors, further stating that during the year under consideration, cash donation of Rs. 34,21,000/- under 'ABHISHEK DONATION INCOME' and of Rs. 41,25,000/- under 'INDRA INDRANI DONATION INCOME' (aggregated donation of Rs. 75,46,000/-) was received in view of function of Panchkalyanak Patishtha Mahotsava (Praan Pratishtha) of holy idol of Shri 1008 shri Aadinath Bhagwaan and 1st Mahamastikabhishek of the same, which was scheduled to be held in the month of April, 2017.

(iii) After considering assessee's submissions, the assessing officer observed that the aforesaid donations were received from 16.10.2016 onwards in cash just before one month prior to the announcement of demonetization. He treated the donations as fictitious, non genuine or bogus further observing that the trust was also not registered u/s 12AA of the Act during the year under consideration, the A.O, thus, added the claimed donations of Rs. 75,46,000/- as unexplained cash credit u/s 68 of the Act and charged to tax u/s 115BBE of the Act.

3. Aggrieved, assessee preferred an appeal before Id CIT(A), who sustained the assessment order in verbatim and dismissed assessee's appeal.

4. Appellant assessee has raised the following grounds under this second appeal:

"1. The Learned Assessing Officer erred in disallowing the claim of assessee under section 11 and 12 of the Income Tax Act.

2. The Learned Assessing Officer erred in making the addition of Rs. 75,46,000/- received in the form of donation for religious activities of the Trust.

3. The Learned Assessing Officer erred in charging special tax rate on income of Rs. 2,01,080/-.

4. That the appellant craves leaves to add, to alter, amend, modify, substitute, delete and/or rescind all or any of the ground of appeal on or before final hearing, if necessary."

5. Perused the records. Heard Id representative for the appellant assessee and Id Sr (DR) for the respondent revenue.

6. The main points for determination under appeal are:- (i) whether the impugned order, confirming the assessment order in disallowing assessee's claim u/s 11 and 12 of the Act for want of registration u/s 12AA for the year under consideration is unsustainable, (ii) whether the impugned order, confirming the addition of Rs. 75,46,000/- received in the form of donation for religious activities of assessee's trust, is unsustainable and (iii) whether the impugned order, confirming the assessment order in charging special tax rate on income of Rs. 2,01,080/- u/s 115BBE is unsustainable?

7. Ld representative for the appellant assessee has submitted that the registration u/s 12AA of the Act was granted on 26.11.2018 for the religious activities (applicable from A.Y. 2019-20). The grant of registration dated 26.11.2018 was prior to the passing of the assessment order dated 29.12.2019 as well as the impugned order dated 05.08.2025. The assessee is entitled for the claimed relief in view of the proviso to section 12A(2) of the Act, in respect of the income derived from the donations received with regard to the activities of the trust, also for the earlier years. Ld AR has referred the following case law in support of his arguments – Prem Prakash Mandal Sewa Trust vs. ITO (Exemption) Raipur, [2021] 132 taxmann. com 269 (Raipur-Trib), Sree Sree Ramkrishna Samity vs. DCIT(Cir-2), Siliguri, [2015] 64 taxmann.com 330 (Kolkata-Trib), SNDP Yogam vs. ADIT (Exemption), [2016] 68 taxmann.com 152 (Cochin-Trib) and Badhte Kadam v. DCIT [2025] 170 taxmann.com 117, (Raipur-Trib).

Ld AR further submits that the appellant is a public trust being century's old centre of faith, worship and culture consisting of 108 Jain temples containing centuries old idols, having immense religious, historical and spiritual significance. The cash donation of Rs. 34,21,000/- and Rs. 41,25,000/- was received from various donors for – Abhishek (Praan Pratishtha) and Mahamastikabhishek respectively for the Holy idol of Aadinath Bhagwaan. Ld AR has further submitted that all the documentary evidence i.e. ledger account with donor details, sample donation receipts, income and expenditure accounts (Audited book of accounts) were filed before the revenue authorities and the surplus of Rs. 2,01,079/- was already offered to tax in the return. Ld AR, thus, submits that the double addition has been made u/s 68 of the Act without rejecting the audited books of accounts and without raising any doubt on the objects and activities of the trust. Moreover, Id AR submitted that the high rate of taxation u/s 115BBE is not applicable for A.Y. 2017-18 as held by the Hon'ble Madras High Court in S.M.I.L.E Microfinance Ltd v. ACIT [2025] 179 taxmann.com 65 (Mad-H.C.), wherein it has been held that enhanced rate of tax @ 60% as provided in section 115BBE of the Act could be made applicable only from assessment year 2018-19 onwards and cannot be applied for earlier years.

8. Ld Sr DR for the respondent revenue has submitted that the assessee trust was not registered u/s 12AA of the Act for the year under

consideration. There has been no past history of the assessee trust to deposit such a huge cash in bank accounts, which was collected one month prior to the commencement of the demonetization. Ld Sr DR supports the impugned order.

9. The first point to be determined is whether the impugned order, confirming the assessment order in disallowing assessee's claim u/s 11 and 12 of the Act for want of registration u/s 12AA for the year under consideration, is unsustainable?

10. It is noticeable that the new proviso to sub section 2 of section 12A was introduced by the Finance Act, 2014 w.e.f. 01.10.2014. Section 12A(2) of the Act reads as under:

“(2) wherein an application has been made on or after the first day of June, 2007, the provisions of section 11-12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made.

Provided that where registration has been granted to the trust or institution u/s 12AA, then, the provisions of section 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the assessing officer as on the date of such registration and the objects and

activities of such trust or institution remain the same for such preceding assessment year.”

11. CBDT, vide circular No. 1/2015 [F. No. 142/13/2014-TPL] dated 21.01.2015 has further clarified the position in respect of the applicability of the above said newly inserted proviso to section 12A(2). The CBDT Circular No. 1/2015 reads as under:-

“ Applicability of the registration granted to a trust or institution to earlier years

8.1 The provisions of section 12A of the Income-tax Act, before amendment by the Act, provided that a trust or an institution can claim exemption under sections 11 and 12 only after registration under section 12AA of the said Act has been granted. In case of trusts or institutions which apply for registration after 1st June, 2007, the registration shall be effective only prospectively.

8.2 Non-application of registration for the period prior to the year of registration caused genuine hardship to charitable organisations. Due to absence of registration, tax liability is fastened even though they may otherwise be eligible for exemption and fulfill other substantive conditions. However, the power of condonation of delay in seeking registration was not available.

8.3 In order to provide relief to such trusts and remove hardship in genuine cases, section 12A of the Income-tax Act has been amended to provide that in a case where a trust or institution has been granted registration under section 12AA of the Income-tax Act, the benefit of sections 11 and 12 of the said Act shall be available in respect of any income derived from property held under trust in any assessment proceeding for an earlier assessment year which is pending before the Assessing Officer as on the date of such registration, if the objects and activities of such trust or institution in the relevant earlier assessment year are the same as those on the basis of which such registration has been granted.

8.4 Further, it has been provided that no action for reopening of an assessment under section 147 of the Income-tax Act shall be taken by the Assessing Officer in the case of such trust or institution for any assessment year preceding the first assessment year for which the registration applies, merely for the reason that such trust or institution has not obtained the registration under section 12AA for the said assessment year.

8.5 However, the above benefits would not be available in the case of any trust or institution which at any time had applied for registration and the same was refused under section 12AA of the Income-tax Act or a registration once granted was cancelled.

8.6 Applicability: These amendments take effect from 1st October, 2014.”

12. The result of the harmonious construction of the new proviso inserted to section 12A(2) and the aforesaid circular no. 1/2015 dated 21.01.2015 is that the aforesaid proviso to section 12A(2) shall have retrospective effect so as not to effect the genuine charitable trust and societies carrying on the genuine charitable activities in the earlier years subject to the fulfillment of the substantive conditions by the trust, as stipulated therein. Accordingly, the aforesaid law provides that a benefit of registration granted in subsequent year, has to be applied in the earlier assessment years for which the assessment proceedings were pending either before the assessing officer or before the Id CIT(A). In the instant case, the assessment proceedings were pending and the assessment was passed on 29.12.2019, whereas, the registration of the trust had already been granted u/s 12AA of the Act, vide regn no. CIT Exemption Bhopal/12AA/2018-19/A/10218 dated 26.11.2018. The assessee is accordingly entitled to claim exemption u/s 11 & 12 of the Act on the basis of said registration u/s 12AA dated 26.11.2018. The similar view has been taken by the coordinate benches of this tribunal in Prem Prakash Mandal Sewa Trust (supra), Sree Sree Ramkrishna Samity (supra), SNDP Yogem (supra) and Badhte Kadam (supra). The aforesaid first point is accordingly determined in positive in favour of the assessee.

13. The second point under appeal is as to whether the impugned order, confirming the addition of Rs. 75,46,000/- received in the form of donation for religious activities of assessee's trust, is unsustainable?

14. It is evident from the paper book filed by the Id AR that assessee is a religious trust. The addition was made u/s 68 of the Act, which was already disclosed in the return of income of the assessee trust in the nature of donation. The amount of donation has also been shown as receipts in the income and expenditure account. Ld AR has referred Commissioner of Income Tax, Ghaziabad v. Uttaranchal Welfare Society [2014] 42 taxmann.com 361 (Allahabad), wherein Hon'ble Allahabad High Court has referred and relied DIT(Exemption) v. Keshav Social & Charitable Foundation [2005] 278 ITR 152(Del- H.C.), wherein it was held that under section 11(1), every charitable or religious trust is entitled to deduction of certain income from its total income from previous year. It was further held that section 68 of the Act has no application in such case where the assessee had disclosed donations as its income. It was also not disputed that receipts, other than corpus donations, would be income in the hands of assessee. If there is full disclosure of the donation for whatever purposes and the registration u/s 12A is continuing and valid, exemption cannot be denied.

15. It is evident from the copy of agenda placed at page 58 of the assessee's paper book, that the proposed event in respect of

Panchkalyanak Pathishtha Mahotsava was discussed and mentioned to be held from 7th April to 13th April, 2017. The various local newspapers at page no. 62 to 64 and photographs of 41 feet tall idol of Lord Aadinath whose Praan Pratishtha was done are at page 65 and 66 of assessee's paper book. The ledger accounts for ABHISHEK DONATION INCOME of Rs. 34,21,000/- are placed at page 73 to 96 and ledger account for INDRA INDRANI DONATION INCOME of Rs. 41,25,000/- is placed at page 97 to 123 of the assessee's paper book. The ledger account depicts complete donors list, donors name and address which gets corroboration from sample donors receipts which are placed at page 124 to 210, containing donors name, father's name, donors address, donation amount, signature of the donor and the receiver etc.

16. Undisputedly, assessee's audited books of accounts and cash books have neither been rejected nor any doubt raised in respect of the objectives of religious activities of the assessee's trust. The various visitors books entries contained at page 674 to 675 include the visit dated 29.03.1953 of the first President of India Dr. Rajendra Prasad. The impugned ADI & DDI donation receipts have been duly credited and offered to tax in the income and expenditure accounts and the surplus of Rs. 2,01,079/- was offered to tax under the return. The Id revenue authorities have disbelieved the voluminous documentary evidence merely on the basis of conjecture and surmises. The aforesaid donations are duly credited and offered to tax in

the income and expenditure account, which is placed at page 718 of assessee's paper book. In view of the cogent evidence, the assessee cannot be denied the benefit of exemption of donation income used in respect of the religious activities of the aforesaid assessee's trust in view of proviso to section 12A(2) of the Act. This point is accordingly determined in positive in favour of the assessee and against the respondent revenue.

17. The third point to be determined is whether the impugned order, confirming the assessment order in charging special tax rate on income of Rs. 2,01,080/- u/s 115BBE is unsustainable? Hon'ble Madras High Court in S.M.I.L.E Microfinance Ltd (supra), vide order dated 19.11.2024, has held that the said provision applies for future transactions i.e. from 01.04.2017. The revenue cannot, therefore, charge special rate on assessee's income of Rs. 2,01,080/- which pertains to A.Y. 2017-18 but under the normal provisions of the Act only. The aforesaid point is accordingly determined in favour of the appellant assessee and against the respondent revenue.

18. In the result, assessee's appeal is allowed.

Order pronounced on - 22.06.2026

**Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER**

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 22.06.2026

*Aamir Siddiqui, PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra