



\$~19

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 22nd January, 2026.

+ ITA 18/2026, CM. APPL. 2552/2026

INTERNATIONAL BUDDHIST CONFEDERATION

.....Appellant

Through: Mr. Akshit Pradhan and Mr. Ayush Shekhawat, Advs.

versus

INCOME TAX OFFICER

.....Respondent

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh, JSC.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT

REPORTABLE

DINESH MEHTA, J. (Oral)

1. The order dated 22.07.2025 passed by Income Tax Appellate Tribunal, Delhi Bench, SMC New Delhi (*hereinafter referred to as the 'Tribunal'*) has been assailed by the appellant in this Court by way of an appeal under Section 260A of the Income Tax Act, 1961 (*hereinafter referred to as 'Act of 1961'*).

2. The appeal was admitted vide order dated 15.01.2026 and following substantial question of law was framed:

"Simply because the assessee had disclosed the income arising from the trust property under the head 'income from other sources', can the exemption be denied?"

3. Though the above question is not subservient to complex facts,



however, for the purpose of reaching to the genesis of the same, some factual narration is necessary, which we give as under:

- 3.1. The appellant is a trust registered as a Non-Governmental Organisation (NGO) with the Ministry of Culture, Government of India and also registered under the provisions of Section 12A and Section 80G of the Income Tax Act, 1961 w.e.f. 02.11.2012.
- 3.2. The appellant filed its return of income for the assessment year 2017-18 on 06.09.2017. Said return was processed under Section 143(1) of the Act of 1961 on 19.03.2018 and appellants income was assessed at ‘nil’ in furtherance whereof, the appellant received a refund of the entire TDS deducted from its income and applicable interest thereupon.
- 3.3. The appellant's case was later on selected for scrutiny under Section 142 of the Act of 1961; during the scrutiny, various clarifications were sought (which were duly furnished by the appellant), and an assessment order under Section 143(3) of the Act of 1961 was passed on 22.11.2019.
- 3.4. The Respondent-Assessing Officer assessed the appellant at Rs 13,02,000/- noticing that he has been assessed as per returned income.
- 3.5. It may, however, be noted that while furnishing the return of income, the appellant had shown the interest income which was received from the FDRs and other bank deposits as ‘income from other sources’ and showed its total income at Rs 13,02,000/-.
- 3.6. Since the appellant had (which it claims to have been filed due to inadvertence), shown its income from FDRs as ‘income from other sources’, while passing the order under Section 143(3) of the Act of



1961, the respondent-Assessing Officer accepted the same as such ignoring the fact that the appellant's income was earlier assessed at nil and the refund was issued.

- 3.7. Feeling aggrieved with the above-referred order dated 22.11.2019, the appellant preferred an appeal which came to be rejected by the Commissioner of Income Tax (Appeals), Addl/JCIT (A) – 2, Mumbai (*hereinafter referred to as 'CIT(A)'*) vide its order dated 05.11.2024. While doing so, the CIT(A) observed that the Assessing Officer had not added back the bank interest as mentioned in the memo of appeal and as a matter of fact, the same was offered to Income Tax by the assessee itself.
- 3.8. The appellant assailed the above-referred order before the Tribunal by way of an appeal which too rejected the same, *per-viam* impugned order dated 22.07.2025.
4. Mr. Akshit Pradhan, learned counsel for the appellant, calling the order of the Tribunal in question argued that all the authorities, including the Tribunal have erred in law in not treating the interest on the FDRs as exempt.
5. He submitted that so far as the fact that the appellant is registered under Section 12A and 12AA of the Act of 1961 is concerned, the same is not in dispute, so also the fact that the appellant fulfilled all the requirement of exemption given under Section 11 and 12 of the Act of 1961.
6. Having said so, learned counsel for the appellant asserted that entire amount of the voluntary contribution of Rs.1,38,86,836/- and bank interest of Rs.13,02,000/-, had been utilized by the appellant for charitable purposes. He pointed out that the Assessing Officer had accepted the claim of



expenditure of Rs.2,42,70,889/- which is more than 85% of the total income and voluntary contributions received by the appellant-trust.

7. He thus argued that such income being interest on FDRs and other bank deposits were clearly exempt from Tax and therefore, the CIT(A) and the Tribunal have erred in rejecting the appellant's appeal and upholding the order of the Assessing Officer which was hyper-technical.

8. He argued that simply due to inadvertence, the appellant had shown the interest received from banks under the head 'income from other sources', the Assessing Officer assessed the appellant's income as claimed, whereas he was required to proceed in accordance with law and treat such income as exempt income. He argued that when appellant's eligibility and the fact that the voluntary contribution and other incomes have been applied in meeting the expenditure of the trust is not in dispute, the Assessing Officer's approach was contrary to law.

9. Mr. Gaurav Gupta, learned Senior Standing Counsel for the Income Tax-Department, argued that the appellant has been assessed as per its own return and therefore, it should not and cannot have any grievance.

10. He, however, could not dispute the factual position that the appellant had utilised the amount of bank interest so also the voluntary contribution to meet the expenditure of Rs.2,42,70,889/- of the trust. He was also not in a position to dispute the fact that vide order dated 19.03.2018, the appellant's income was assessed at 'nil' and an amount of Rs. 90,560/- was refunded to it.

11. Heard learned counsel for the parties.

12. The case in hands is a classic example of callousness. The Assessing Officer, while making the scrutiny assessment has taken advantage of the



assessee's fault. It is rather surprising to find that when the assessment order was passed under section 143(1) (without scrutiny of the record), the appellant's income was assessed at 'nil' and a refund Rs.90,560/- was granted to appellant on 26.06.2018.

13. However, when the matter was taken up for scrutiny assessment, despite such fact and the details furnished by the appellant, the Assessing Officer proceeded to assess the appellant as per the return filed income of Rs.13,02,000/- and raised a demand.

14. According to us, while passing an order under Section 143(3) of the Act of 1961, the Assessing Officer is required to apply a judicious approach and confer due benefits, including exemption or deduction, for which the assessee is otherwise entitled to.

15. In the instant case, rather a strange situation has come to fore – while processing the appellant's return of income, it has been assessed in accordance with law with a justice-oriented approach whereas during scrutiny assessment the Assessing Officer has proceeded akin to a machine which does not have the ability to think for itself. The machine has processed the return as if it has a pulsating heart and a human mind with the ability to analyse, while the man (the Assessing Officer) has proceeded as a machine. Such approach mocks at the adjudicatory mechanism.

16. We are surprised to see that both the appellate authorities too have applied a telescopic view of the matter and have rejected the appellant's appeal by simply observing that the said amount had not been added by the Assessing Officer. Even if that was so, at least they were expected to consider the material & petitioner's contentions.

17. We may add here that appellate proceedings are a continuation of



regular proceedings and if any error has been committed by the Assessing Officer, it is the duty of the appellate authority to correct such error. The Assessing Officer might have been swayed by the revenue considerations, (ideally, which he should not) but at least the CIT(A) ought to have taken into account, the correct factual and legal position instead of non-suited the appellant on technical count. Similar has been the approach of the learned Tribunal, which should have been avoided. It is because of such approach that the appellant has to come to this Court. A *lis*, which could have been given a quietus, has to be brought to this Court.

18. It is the duty of the appellate authorities to assist taxpayers in securing legitimate reliefs and not be fettered by mere technicalities. This view stands affirmed in the judgment rendered by this Court in **CIT v. Jai Parabolic Springs Ltd.**, reported in (2008) 306 ITR 42 (Del) wherein it was held that there is no bar on the appellate authorities to entertain a claim for deduction not made in the return. A reference was also made to the judgment of Hon'ble the Supreme Court rendered in the case of **National Thermal Power Co. Ltd. v. CIT** reported in (1998) 229 ITR 383 (SC), wherein it was held that appellate authorities including the Tribunal remain fully empowered to grant relief or allow claims to which the assessee is entitled, even if unclaimed in the return.

19. The view is further reinforced vide the CBDT Circular No. 14-XL (35) dated 11.04.1955 which enjoins a duty upon the officers of the department to aid taxpayers in every reasonable way to correctly determine their tax liability, particularly when some refund or relief is due to them and to refrain from taking advantage of an assessee's ignorance of his rights.

20. In view of the foregoing discussion we allow the appeal and impose a



2026:DHC:864-DB



cost of Rs 25,000/- upon the Income Tax Department. The assessment order dated 22.11.2019 as affirmed by order dated 05.11.2024 passed by the CIT(A) so also the order dated 22.07.2025 passed by the Tribunal are hereby quashed.

21. The amount, if any, deposited by or recovered from the appellant along with the applicable interest and the cost (Rs.25,000/-) shall be paid, on or before 31.03.2026, failing which the entire amount shall carry interest at the rate of 1% per month from the date of the order instant.

22. Appeal stands allowed accordingly.

23. The present appeal, along with pending applications stands disposed in the aforesaid terms.

**DINESH MEHTA
(JUDGE)**

**VINOD KUMAR
(JUDGE)**

JANUARY 22, 2026/ck/