

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2811/Chny/2024
निर्धारण वर्ष/Assessment Year: 2016-17

The ACIT (Exemptions), Chennai.	v.	Everwin Educational & Charitable Trust, No.12A, Redhills Road, SJ Avenue, Kolathur, Chennai-600 099. [PAN: AAATE 4884 E]
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
प्रत्यर्थी की ओर से /Department by	:	Mr.Shivanand K. Kalakeri, CIT
अपीलार्थी की ओर से/ Assessee by	:	Mr.R. Vijayaraghavan, Advocate & Mr.Vikram Vijayaraghavan, Advocate
सुनवाईकीतारीख/Date of Hearing	:	05.12.2025
घोषणाकीतारीख /Date of Pronouncement	:	24.02.2026

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the Revenue against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter referred to as 'Ld.CIT(A)'), Delhi, dated 24.09.2024 for the Assessment Year (hereinafter referred to as 'AY') 2016-17.

2. The main grievance of the Revenue is against the action of the Ld.CIT(A) holding that the properties purchased in the name of trustees



:: 2 ::

out of Trust funds did not violate the provisions of Sec.13(1)(c) r.w.s.13(2)(g) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') and was therefore entitled to exemption claimed u/s 11 of the Act.

3. Briefly stated, the facts of the case are that, the assessee is a public charitable trust holding registration u/s 12A/12AB of the Act. For AY 2016-17, the assessee had filed the return of income on 24.02.2017 declaring gross receipts of Rs.33,29,56,567/- and admitting NIL income after claiming exemption u/s 11 of the Act. The case of the assessee was selected for regular scrutiny which was completed u/s 143(3) of the Act on 26.12.2018 accepting the returned income. Later on the Ld. Commissioner of Income Tax (Exemptions) [in short 'CIT(E)'] in exercise of revisionary jurisdiction vested u/s 263 of the Act had set aside the assessment order dated 26.12.2018 holding it to be erroneous and prejudicial to the interests of the Revenue. The Ld. CIT(E) inter alia observed that, the assessee trust had acquired properties in the names of their trustees using the trust funds which was in violation of provisions of Section 13(1)(c) of the Act. The Ld. CIT(E) observed that, the subsequent action of trustees bequeathing their legal title in the land parcels to the assessee trust by Will dated 12.12.2018 did not alter the violation committed by them. The Ld. CIT(E) was of the view that, the execution of will was an after-thought in as much as the trustees would enjoy the



:: 3 ::

properties during their lifetime and when it serves no purpose upon their demise, it would vest with the trust. The Ld. CIT(E) further observed that, the Will could later on be altered or modified as well and hence the execution of will did not confer back the title to the assessee trust.

4. Upon receipt of the order passed u/s 263 of the Act dated 31.03.2021, the AO issued notice to the assessee on 07.09.2021 to explain their case. The assessee is noted to have filed their response on 16.09.2021, which has been extensively reproduced by the AO in the assessment order. It was inter alia explained that the intent of the assessee trust and the trustees was always to acquire and hold the land parcels for the use and benefit of the assessee trust for education purposes. The assessee further explained that the registration in the name of the trustees was a bonafide mistake and that the land parcels were beneficially owned by the assessee trust. To demonstrate the same, the assessee furnished the respective books of accounts of the trust and the trustees along with the various registrations obtained from other statutory or local authorities. It was further submitted that, when this mistake came to light, the trustees had executed the will dated 12.12.2018 and also furnished an affidavit dated 21.02.2022 bequeathing the properties onto the trust. It was explained that the legal title was not transferred as they were advised that the registration would entail cost of 8% of stamp duty, which would have unnecessarily burdened the



:: 4 ::

charitable trust with additional costs. The AO however not agreeable to the explanation furnished by the assessee and held that the act of registration of property in the individual names of the trustees was a clear violation of Section 13(1)(c) of the Act as a benefit accrued to the trustees because the legal ownership was with them and not the assessee trust. The AO dismissed the execution of will and the affidavit as an after-thought. The AO further held that the assessee trust had the necessary finances to bear the cost of registration of 8% to get the property registered in their name back from the trustees and that the will / affidavit would not ensure the clear title over the land parcels. According to the AO, both the will and affidavit were revocable at any time during the lifetime of the trustees and therefore the ownership vested with the trustees and not the assessee trust. The AO thus concluded that the trustees had benefitted by registering the land in their own names without spending from their accounts and thus violation provisions of Section 13(1)(c) of the Act. With these observations, the AO made an addition of Rs.14,70,54,250/- u/s 13(1)(c) r.w. 13(2)(g) of the Act and also denied the exemption claimed u/s 11 in respect of the net income of the assessee trust. Aggrieved by the order of the AO, the assessee preferred appeal before the Ld. CIT(A).



:: 5 ::

5. During the pendency of the appeal and having regard to the observations made by the AO, the assessee trust is noted to have sought legal advice and thereafter executed a registered rectification deed 11.04.2023, whereby the original purchase deed was rectified and the name of the purchasers was shown as 'Everwin Educational and Charitable Trust' instead of the trustees and it was deemed that the property was purchased by the assessee trust from the inception and not by the individuals. Further, the property was also mutated in the name of the trust and the encumbrance certificate and property tax was paid in the trust's name. Taking note of these subsequent developments and the overall facts of the case and conduct of the assessee trust as well as the individual trustees, the Ld. CIT(A) held that the provisions of Section 13(1)(c) was wrongly invoked by the AO and allowed the assessee's appeal, by holding as under:-

"I have gone through all the documents and submissions furnished by the appellant. The appellant is a Charitable Trust running Educational Institution and during the assessment year 2016-17 the trustees purchased a land for the purpose of the Trust. However inadvertently in the purchase deed the name of the purchaser was mentioned as Mrs. Maheswari and Mr Purushothaman instead of mentioning their name as Trustees of Everwin Educational and Charitable Trust. Because of this at the time of assessment the trust was informed that as the purchase of land has been registered in the name of the trustees in their individual capacity, it would attract the provisions of Section 13(1)(c) of the Income Tax Act, 1961. It is observed that after purchase, the lands were shown as the assets of the Trust/ School in the books of the Trust from the beginning and also in the Balance Sheet of the Trust/ School.



:: 6 ::

The lands were not reflected in the balance sheet of the trustees individually. They had also executed an affidavit, registered with the authorities, stating that the names mentioned in the purchase deed was wrong and it actually belonged to the trust. Trustees had registered a rectification deed on 11/04/2023, whereby the original purchase deed was rectified and the name of the purchaser was shown as Everwin Educational and Charitable Trust. Encumbrance Certificate (EC) & Property tax was also paid in the trust name and school name. By this rectification deed, the entire property is deemed to have been purchased and owned right from inception by the Educational Trust and not any individuals. Hence provisions of sec 13(1)(c) will not apply to these purchases.

In view of the above, these grounds of appeal are, accordingly, allowed and the addition made by AO on this account is, hereby, deleted.”

6. Being aggrieved by the above order of the Ld. CIT(A), the Revenue is now in appeal before us.

7. Assailing the action of the Ld. CIT(A), the Ld. DR argued that the rectification deed 11.04.2023 later on executed by and between the assessee trust and the trustees was an after-thought to avoid the rigors of Section 13(1)(c) of the Act and that this subsequent action could not alter the violation committed during AY 2016-17. The Ld. DR thus urged us to reverse the order of the Ld. CIT(A) and restore the action of the AO.

8. The Ld. AR, on the other hand, first narrated the entire background facts of the case. The Ld. AR submitted that the assessee trust was formed in the year 1992 but it had largely remained inactive until 2015. Until 2015, the trustees of the assessee trust Mrs V Maheswari and Mr. B



:: 7 ::

Purushothaman were running and operating two proprietary educational institutions under the name and style of 'Everwin Vidyashram' and 'Erwin Matriculation Higher Secondary School' respectively since 1992. Both the schools run by the trustees in their individual capacities were not availing exemption u/s 11 of the Act. The receipts from students, expenses incurred and net profit was disclosed in the financials and offered to tax. It was shown to us that, for AY 2015-16, these two individual trustees had disclosed taxable profit of Rs.1.44 crores and Rs.1.01 crores from these two schools respectively. It was also brought to our notice that, the two proprietary schools together had assets of Rs.70 crores, annual receipts of Rs.25 crores, surplus of Rs.4.33 crores and combined cash & bank balance of Rs.19.49 crores. It was during AY 2016-17 that, these two individual trustees with their clear charitable intent had settled both these schools along with its assets and liabilities to the assessee trust with effect from 01.04.2015. From 01.04.2015 and onwards, the land, building, infrastructure, students, cash & bank balances etc. stood donated to the corpus and vested with the assessee trust. The Ld. AR showed that this transfer by the trustees to the assessee trust was executed by an unregistered deed, which has not been disputed by the Revenue.



:: 8 ::

9. Subsequent thereto, the assessee trust had established Erwin Public School at Ayyavoo Nagar, Chennai which was registered on 11.05.2015 and commenced operations as a CBSE Institution. For this, the assessee trust had acquired land parcels situated at Maduravoyal Village for an aggregate consideration of Rs.14.70 crores, which was paid out of the cash & bank balance of the two schools transferred by the trustees to the assessee trust during the same year on 01.04.2015. The Ld. AR pertinently pointed out that the source of acquisition of these land parcels were the very funds transferred by the trustees themselves to the assessee trust's bank account. The Ld. AR explained that, if the trustees intended to benefit out of the assessee trust, then they would not have transferred the schools to them in the first place along with all their assets and liabilities. He further submitted that, the source of funds paid for acquisition of land, was the funds provided by the trustees and therefore there was no use or application of any income or property of the assessee trust as contemplated in Section 13(1)(c) of the Act. According to the Ld. AR, it was due to misunderstanding and bonafide omission, the land parcels though paid and acquired by the assessee trust was mistakenly registered in the names of the trustees without there being any specific mention that they were acting in their fiduciary capacity of the trustees of the assessee trust. He explained that both the transfers of the existing schools earlier held in the names of the trustees and this land



:: 9 ::

parcel in question occurred during the same AY 2016-17. He pointed out that, the transfer of the existing schools through unregistered deeds in favour of assessee trust had not been disputed or questioned by the Revenue. The trustees were therefore under the bonafide impression that the registration in their names were in the capacity of the trustees and that the intention was clear that, the land parcels were to be owned and used by the assessee trust alone.

10. It was shown to us that, the properties were paid for by the assessee trust and recorded as their 'Asset' in the books of accounts. It was further brought to our notice that, the trustees did not recognize or reflect these land parcels as their assets in their individual balance sheets. Further, immediately upon acquisition, the assessee trust had also constructed school over the land parcels in pursuance of their object of education. The said school land and building of the assessee trust is noted to have been recognized by the Director of School Education, Government of Tamil Nadu on 24.11.2017 and CBSE granted affiliation on 24.12.2019, both in the name of the assessee trust. When this bonafide omission was pointed out by the Ld. CIT(E), the assessee under legal advice had furnished registered will executed by the trustees affirming that the legal title in land whose beneficial ownership vested with the assessee trust, would also stand transferred to the assessee trust upon their demise. The trustees also furnished a sworn declaration affirming the ownership of the



:: 10 ::

assessee trust. The Ld. AR explained to us that, re-registration in the name of the assessee trust was not done only with the intent to save the burden of stamp duty cost upon the assessee trust, as the intent of both the trustees and the assessee trust were abundantly clear that the ownership in these land parcels belonged to the assessee trust alone which was held by the individuals fiduciary capacity. He pointed out that, when this will and declaration/affidavit was not accepted by the Revenue, the assessee trust again sought legal advice and executed a registered rectification deed on 11.04.2023 by virtue of which the names of the individual trustees in the original purchase deed stood replaced by the name of the assessee trust and therefore the legal title in the land stood also vested with the assessee trust from the inception and that there was no alleged violation of Section 13(1)(c) of the Act.

11. We have heard both the parties and perused the material placed on record before us. Before advertng to the facts of the case, it is important to refer to clause (c) of sub-section (1) of Section 13 and clause (g) of sub-section (2) of Section 13 of the Act, invoked by the AO. The said provisions are set out below:

"13. Section 11 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—



:: 11 ::

(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 endures, or

(ii) if any part of such income or any property of the trust or the 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):

(2) Without prejudice to the generality of the provisions of clause (c) and clause (d) of sub-section (1), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied for the benefit of a person referred to in sub-section (3),—

(g) if any income or property of the trust or institution is diverted during the previous year in favour of any person re-ferred to in sub-section (3):

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property, so diverted does not exceed one thousand rupees;"

12. A plain reading of sub-section (1) of Section 13 of the Act indicates that exemptions under Section 11/12 of the Act would not operate so as to exclude from the total income of the previous year, any income, which is directly or indirectly, utilized for the benefit of the person referred to in sub-section (3) of Section 13 of the Act. It is, thus, clear that if any part of the income of a trust for charitable or religious purposes is diverted for the direct or indirect benefit of a person referred to in sub-section (3) of the Act, that part of the income would not be excluded from the total income of the assessee by virtue of Section 11/12 of the Act. In other



:: 12 ::

words, the exemption under those Sections would not be available to the extent that the said income of a charitable or religious purposes is applied for the benefit of a person specified in sub-section (3) of Section 13. By virtue of clause (g) of sub-section 2 of the Act if any income or property of the trust is diverted to a person, which is specified under sub-section (3) of Section 13 of the Act, it would be deemed that the income or the property or trust has been applied for the benefit of that person for the purposes of Clause (c) and (d) of sub-section (1) of Section 13. In order to invoke the provisions of Section 13(1)(c) of the Act therefore, it is required to be shown that there was *use* or *application* of income or property for the *benefit* of a specified person. There ought to be some accompanying enjoyment, diversion or personal advantage to the specified person. We may at this juncture refer to the decision of the jurisdictional Madras High Court in the case of **Natya Sankalpa v. DIT(E) (378 ITR 654)** wherein a fine distinction was drawn between a situation where trust income is actually applied in a manner that enriches or benefits the specified person and a situation where though there may be mention or involvement of the specified person but there is no factual application or use of income or property for the specified person's benefit in the relevant year. The Hon'ble High Court unequivocally held that Section 13(1)(c) is attracted only in the former situation. The findings of



:: 13 ::

the Hon'ble High Court which are relevant in the present context is as follows:-

"7. The fact that the Trust, during the assessment year in issue, constructed the building in question and spent amounts for the entire construction is not in dispute. The fact that the Trust has not paid any amount as rent, licence fee, lease fee or such other fee to the individual Sri A.D. Satharayanan is also not in dispute. The issue that is raised by the Department is that while accepting that the Trust has not paid any rent or any compensation to the trustee for the land used by the assessee trust which belongs to one of the trustees, the income for construction of the building on the land belonging to one of the trustee would amount to income for the benefit of the trustee which will fall under Section 13(1)(c) of the Act unmindful of the agreement which states that in the event of the trust vacating the building in future, the trustee shall compensate the trust for the value for the building in question. De hors this agreement, there is nothing to show that there was any manner of use of application of the income or property of the Trust to the person set out in sub section 13 (1) (3) (c) of the Act. It is only when there is an application of income or any part of the property or building directly or indirectly put to use for the benefit of person referred to above, the provision will get attracted we do not find such application in the facts of the present case. We are in agreement with the decision arrived at by the Commissioner Appeals on this point."

(emphasis added)

14. Having taken note of the above legal position of Section 13(1)(c) r.w. 13(2)(g) of the Act, we now revert back to the facts of the present case. The facts as noted above are that, the individual trustees of the



:: 14 ::

assessee trust had transferred their respective proprietary schools along with all their assets & liabilities to the assessee charitable trust during the year in question. The said transfer of schools to the assessee trust is not in dispute. It is also not the case of the Revenue that, the individual trustees had made any excessive gains from this act or transferring these schools to the assessee trust. Rather from the facts placed before us, it is observed that both the trustees had demonstrated their charitable intent by devolving their personal properties / schools to the assessee trust for charitable purposes. It is seen that the cash & bank balance inter alia transferred to the assessee trust was almost Rs.19.49 crores. We find that, the assessee trust had acquired the impugned property in question out of the funds which was provided and transferred by the trustees in the first place. It is observed that though the funds for acquiring the land parcels was paid by the assessee trust but the registration occurred in the names of the trustees. It is the assessee's case that, the trustees held the property in their name in fiduciary capacity and that the assessee trust was all long the beneficial owner of the property. To demonstrate the same, the assessee has placed before us contemporaneous evidence comprising of the audited financials of the assessee trust and the individual trustees to show that it was the assessee trust which had recorded and recognized ownership of the land and not the individual trustees. It was also shown to us that, subsequent to acquisition of land,



:: 15 ::

out of the funds provided by the trustees, the assessee trust had undertaken construction of school in furtherance of its charitable object of education. The necessary permissions and clearances were taken in the name of the assessee trust and even the affiliation with CBSE was in the name of assessee trust, who recognized the assessee trust to be the owner of the school property. On these given facts, we find that, the conduct of the assessee trust and the trustees, more particularly having regard to the fact that the funds to acquire the property was provided by the trustees in the first place, lends credence to the assessee's plea that the acquisition of the land in question was not meant to benefit the trustees in their individual capacity. It was incorrect for the AO to assume that, that registration in trustees' names automatically results in benefit to them, when the facts and circumstances placed on record, shows the contrary that the impugned property beneficially belonged to the assessee trust and was all along enjoyed and used by the assessee trust and that the individual trustees did not derive any benefit therefrom.

15. When the Revenue disputed the veracity of these documents on the ground that they were not registered, it is observed that the trustees had executed a registered rectification deed on 11.04.2023 substituting their names in the property deeds with the name of the assessee trust. The assessee trust has also furnished the encumbrance certificates and mutations to show that, the land revenue records are reflecting their



:: 16 ::

name and that the impugned property is clear of any encumbrance or liabilities qua the assessee or any of the trustees. These contemporaneous evidences placed on record does show that the assessee trust was in control and possession of the impugned property and enjoyed the same and not the individual trustees. Further, the facts on record shows that the trustees never derived any benefit from these properties when held in their name. The source of funds, as noted above, emanated from the coffers of the trustees in the first place, the school building was registered in the name of the assessee trust, the school activities were carried on by the assessee trust and all the fees/receipts realized from students were also enjoyed by the assessee trust. We thus find there is no iota of evidence to show that the assessee trust had enjoyed or used or applied any income or property of the trust for the personal benefit of the trustees. Rather, we find that the assessee trust was always in possession of the property in question and has been running the School solely and exclusively for its own benefit and in furtherance of their charitable objects on such premises. Furthermore, it does not lie in the mouth of the Revenue to allege violation of Section 13(1)(c) of the Act when they have accepted the receipt of the two schools from the individual trustees along with the cash & bank balance (out of which the impugned property was acquired) on the basis of an unregistered deed. On these given peculiar facts and the bonafide conduct



:: 17 ::

of the parties involved, we are in agreement with the Ld. CIT(A) that the provisions of Section 13(1)(c) had no application in the present case.

16. In this regard, we gainfully refer to the decision of this Tribunal in the case of **DDIT(E) Vs A R Rahman Foundation (61 taxmann.com 130)** involving somewhat similar facts and circumstances as involved in the present case. In the decided case also the AO had denied the benefit of exemption u/s 11 of the Act claimed by the assessee charitable trust on the ground that it had incurred developmental expenses on the land purchased in the names of the trustees in violation of provisions of Section 13(1)(c) of the Act. The assessee had claimed that there was no violation as the trustees had later on settled the property in question in the name of the trust as was earlier promised by them. On appeal the Ld. CIT(A) inter alia observed that, though the land was not registered in favour of the assessee-trust but the trustees had promised to execute a settlement deed and duly register the same in favour of the trust in due course of time to enable the trust to build a school there. The Tribunal held that, the Act recognizes such transfer even though registration was not done as the trust had accepted the gift and took possession of the same for the development activities. It was thus held by the Ld. CIT(A) that, the land is the property of the trust and that the trustees had promised execution of settlement deed, as it may be required to apply for the permission to run the music school. It was accordingly observed that



:: 18 ::

no benefit endures to the trustees as they have whole heartedly gifted away the land for a good cause. The Ld. CIT(A) further held that, the registration is only a legal formality and culmination point in the transfer of property. The fact that there was handing over of the possession by the owner to the recipient (buyer or donee as the case may be) for the use and exploitation the latter, it was to be treated as if the property was held by the assessee trust. The Ld. CIT(A) further took note of the fact that the registration of the gift deed also took place later on 25.03.2013 wherein it was inter alia mentioned that the gift took place on 15.03.2009. On these facts, and having regard to conduct of the assessee as well as the trustees, the Ld. CIT(A) held that provisions of Section 13(1)(c) of the Act cannot be invoked in the present case. On appeal by Revenue, this Tribunal is noted to have upheld the findings of the Ld. CIT(A) by holding as under:-

"6. As could be seen from the findings of the Commissioner of Income-tax (Appeals) that the trustees have initially gifted the land to the assessee-trust by HIBBA and which was subsequently transferred to the assessee-trust by way of gift deed dated March 25, 2013. As the land was transferred to the assessee-trust which was orally gifted earlier, the trustees are not benefitted in any way. Therefore, we are of the view that there is no violation under section 13(1)(c) of the Act. We also find from the valuation report that certain extent of land was not even in the name of the trustees. The trustees have purchased this land on April 28, 2011 which fall under the assessment year 2011-12 and this was also gifted to the trust on March 25, 2013. The findings of the Commissioner of Income-tax (Appeals) have not been rebutted by the Revenue with evidences. In the circumstances, we uphold the order of the



:: 19 ::

Commissioner of Income-tax (Appeals) holding that there is no violation of the provisions of section 13(1)(c) of the Act and consequently exemption under section 11 cannot be denied."

17. Following the above decision (supra) in light of our observations above, we have no hesitation in upholding the order of the Ld. CIT(A) in the peculiar facts of the case as discussed (supra); and therefore dismiss all the grounds raised by the Revenue.

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

Order pronounced on the 24th day of February, 2026, in Chennai.

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 24th February, 2026.

TLN

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF