

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER &
SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

I.T.A. No. 1505/Ahd/2025
(Assessment Year: 2017-18)

Deputy Commissioner of Income Tax (Exemptions), Circle-1, Ahmedabad	Vs.	State Examination Board, Nr. Government Library, Sector-21, Gandhinagar-382021
[PAN No. AACTS9590F]		
(Appellant)	..	(Respondent)

Appellant by :	None
Respondent by :	Shri Abhijit, Sr. DR
Date of Hearing	24.02.2026
Date of Pronouncement	01.04.2026

ORDER

PER: ANNAPURNA GUPTA - AM:

The present appeal has been filed by the Revenue against the order of the Ld. Commissioner of Income Tax (Appeals), (hereinafter referred to as “CIT(A)”) National Faceless Appeal Centre (in short “NFAC”), Delhi dated 04.06.2025 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) and relates to Assessment Year (A.Y.) 2017-18.

2. The Grounds of Appeal raised by the Revenue are as under:

“1. Whether on the facts and in circumstances of the case, Ld. CIT(A), NFAC is justified in deleting the disallowance of Rs. 3,32,91,973/- claimed as application of income during the year under consideration.”

3. The solitary issue in the present appeal relates to the disallowance of Rs. 3,32,91,973/- being accumulated amount out of Rs.5.60 Crs accumulated

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u/s 11(2) of the Act in A.Y 12-13, the impugned year before us being A.Y 17-18 on the ground that the claim of the application of the said amount by the assessee under Section 11 of the Act was a double deduction claimed by the assessee. The Assessing Officer had noted facts with regard to the said claim as the impugned amount of 3.32 crores related to amount accumulated by the assessee of Rs. 5.60 crores under Section 11(2) of the Act in A.Y. 2012-13.

4. The case of the Assessing Officer was that the assessee had claimed deduction on account of accumulation of Rs. 5.60 crores in A.Y. 2012-13 itself and therefore, the claim of Rs. 3.32 crores out of the said accumulated amount of Rs. 5.60 crores in the impugned year i.e. A.Y. 2017-18 on account of application of the same in the impugned year was nothing but double deduction claimed by the assessee, once in A.Y. 2012-13 and doubly in the impugned assessment year i.e. A.Y. 2017-18.

5. The Ld. CIT(A), however, found the assessee to have correctly claimed the application of the said amount in the impugned year.

6. For better understanding and adjudicating the issue the facts relating to the same need to be brought out clearly. The Ld. Counsel for the assessee has filed before us copy of Form 10B pertaining to A.Y. 2012-13 placed before us at Paper Book Page No. 67 to 70. On perusal of which reveals the assessee to have accumulated cash set apart for specified purposes under Section 11(2) of the Act amounting to Rs. 5.60 crores. This fact is not disputed by either of the parties. As per Section 11(2) of the Act, in relation to which the assessee had accumulated or set apart the amount in the said year, the assessee is entitled to claim the amounts so accumulated as

exemption in the year of accumulation or set apart. The provision of Section 11(2) clearly provide that income so accumulated or set apart was not be included in the total income of the previous year of the person in receipt of the income provided he furnished a statement in the prescribed form to the Assessing Officer and the money so accumulated is invested or deposited is modes specified in sub-section (5). The provision of Section 11(2) are reproduced herein for clarity:

(2) Where eighty-five per cent of the income referred to in clause (a) or clause (b) of sub-section (1) read with the Explanation to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

- (a) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;*
- (b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);*
- (c) the statement referred to in clause (a) is furnished ⁸¹[at least two months prior to] the due date specified under sub-section (1) of [section 139](#) for furnishing the return of income for the previous year:*

Provided that in computing the period of five years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

7. The Form 10B pertaining to A.Y. 2012-13 reveals the amount accumulated of Rs. 5.60 crores to have been invested in fixed deposits with GSFS Ltd. as prescribed in the manner laid down in Section 11(2)(b) of the Act.

8. The amount of Rs. 3,32,91,973/- which is the amount in dispute before us is reflected as credited to the consolidated income and expenditure account

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of the impugned year. The copy of the consolidated account was placed before us by Ld. Counsel for the assessee and the same is reproduced hereunder:

State Examination Board
Opp. Government Library,
Sector - 21
Gandhinagar
E-Mail : gseb21@gmail.com

Consolidated Income & Expenditure Account
For the period 01/04/2016 to 31/03/2017

Particulars	Amount	Amount	Particulars	Amount	Amount
Expenditure:		273,243,646	Opening Balance		203,554,415
Salary & Wages	9,976,637		Income:		345,246,985
Expenses on Employees	849,020		State Government Grant	10,034,551	
Vehicle Running and Maintenance Expense	32,220		Examination Fees	147,831,270	
Postage, Telephone and Communication Expense	338,002		NTSE/NMMS (Dadaranagar Haveli)	26,620	
Printing and Stationary Expenses	81,011		Gunotsav Income	155,325,864	
Travelling and Conveyance Expense	201,850		Interest Income	31,887,116	
Auditors Remuneration Expense	14,000		Other Income	141,564	
Transportation Expenses for Examinations	158		Capital Reserve Account		33,290,973
Data Processing Expenses	19,500		Amount transferred from capital		
Advertisement & Publicity Expenses	473,667		reserve towards adjustment of		
Office Contingency Expenses	32,914		expenditure for FY 2011-12		
Examination Center Expense	6,806,550				
Gunotsav Expense	57,676,355				
Other Examination Expenses	189,997,079				
Departmental Examination Expenses	19,709				
Bank Charges	1,142				
Food and Grain Expense	25,000				
Vehicle Expenses	4,501,131				
Other Expenses	2,197,701				
Capital Reserve Account		20,216,292			
Amount transfer to capital reserve for accumulation of					
expenses for FY 2017-18					
Closing Balance		288,633,436			
Total		582,093,374	Total		582,093,374

9. The assessee had explained the reason for crediting the same to the consolidated income and expenditure account as out of the accumulation of Rs. 5.60 crores. The assessee had stated to have acquired fixed assets during the year out of the accumulated amount, of Rs. 2.27 crores and the balance 3.32 crores was stated to be expended for revenue purposes in the impugned year. This explanation of the assessee was reproduced before us at Page 6 of Annexure-1:

Particulars	Amount in INR
<i>Capital Expenditure as per Note 5 of Balance Sheet (Fixed Asset Addition)</i>	2,27,08,027

<i>Revenue Expenditure as per Note 1 of Balance Sheet</i>	<i>3,32,91,973</i>
<i>Total Deduction Claim from accumulation</i>	<i>5,60,00,000</i>

10. It is evident that the assessee's claim is that it has expended/ applied for charitable purposes Rs. 3.32 crores out of accumulation of A.Y 2012-13 in the impugned year. And therefore, its claim of exemption of the said amount is correct.

11. We are not in agreement with the contention of the Ld. Counsel for the assessee for two reasons:

(i) the assessee has failed to dislodge the fact on record that Rs. 3.32 crores, which admittedly form part of the income accumulated in A.Y. 2012-13 on 5.60 crores, was claimed as exempt in A.Y. 2012-13 in terms of the provisions of Section 11(2) of the Act. Form 10B of A.Y. 2012-13 clearly reflected the fact of the amount of Rs. 5.60 crores having been claimed in terms of the provisions of Section 11(2) of the Act. The fact therefore is that the assessee has claimed the said accumulation as exempt u/s 11(2) of Act in the return of income filed for the said Year, i.e A.Y 12-13, since it is certified by an accountant in Form 10. The assessee has not filed before us copy of return for A.Y. 2012-13 reflecting to the contrary. Therefore, for all purposes the assessee had claimed 5.60 crores as exempt in A.Y. 2012-13 itself and therefore, the claim of exemption of 3.32 crores again in the impugned year i.e. A.Y. 2017-18 has been rightly held by the AO as double exemption claimed by the assessee.

(ii) The other reason is that as per the facts before us the assessee had not utilized Rs. 3.32 crores for application towards the objects of the assessee society / trust in the impugned year.

12. The consolidated income and expenditure account reproduced above shows the income earned by the assessee Board, excluding the amount transferred from the accumulated fund of A.Y. 2012-13, to be 34.52 crores. The total expenditure incurred by the assessee is 27.32 crores. In the Form 10B file for the impugned year placed before us at Paper Book Page No. 71, the assessee has reflected the surplus of Rs. 7 crores to be deemed to be accumulated or set apart to the extent it does not excluded 15% of its income to be 5 crores and the balance 2 crores has been reflected as accumulated for specified purposes under Section 11(2) of the Act. Clearly the application of income during the year has been claimed out of the income of the impugned year alone as there was surplus remaining therein of 7 crores which has been accumulated and set apart as claimed in Form 10B filed for the impugned year. The amount of Rs. 3.32 crores which was credited to the income and expenditure account has remained unutilized and has been carried forward in the closing balance of the general reserves of the Board, reflected at Rs.28.86 crores which included opening balance of 20.35 crores, transfer from capital reserves to the tune of Rs. 3.32 crores and Rs.5 crores accumulated during the impugned year. Therefore, the facts on record demonstrated that the amount of Rs. 3.32 crores was not even utilised during the impugned year as per the assessee itself. For this reason also the assessee's claim of

entitlement to exemption on account of utilisation of Rs. 3.32 crores in the impugned year is not acceptable being incorrect on facts.

13. It is abundantly clear that the amount of Rs.3.32 crores credited to the consolidated income and expenditure Account was the balance of the funds accumulated in A.Y. 2012-13 of Rs.5.60 crores which remained unutilized up to A.Y. 2017-18 i.e. up to the expiry of 5 years from the end of the assessment year in which the funds were so accumulated and as per the provisions of the Act 11(3), they are deemed to be the income for the year in which they are not utilized for the purposes for which it is accumulated. The provisions of Section 11(3) sub-Clause (iii) of the Act providing so are as under:

(3) Any income referred to in sub-section (2) which—

- (a) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or*
- (b) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or*
- (c) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of that sub-section,*
- (d) is credited or paid to any trust or institution registered under [section 12AA](#) or [section 12AB](#) or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of [section 10](#),*

shall be deemed to be the income of such person of the previous year,—

- (i) in which it is so applied or ceases to be so accumulated or set apart under clause (a); or*
- (ii) in which it ceases to remain so invested or deposited under clause (b); or*
- (iii) being the last previous year of the period, for which the income is accumulated or set apart but not utilised for the purpose for which it is so accumulated or set apart under clause (c); or*
- (iv) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (d).*

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14. In light of the above we hold that the AO was right in holding that the amount of Rs. 3.32 crores needed to be added to the income of the assessee, liable to tax in the impugned year.

15. The Ld. CIT(A) has allowed the assessee's claim noting that there was no evidence to suggest that the amount of Rs. 5.60 crores was claimed as application for A.Y. 2012-13 but his finding is contrary to the facts noted by us above that the assessee itself had reflected Rs.5.60 Crs as accumulated u/s 11(2) of the Act in Form 10B for A.Y 12-13 and there is no evidence on record to show that the assessee had not claimed such exemption in A.Y. 2012-13.

16. In view of the above the order passed by Ld. CIT(A) allowing assessee's claim to exemption Rs. 3.32 crores is set-aside. The order of the Assessing Officer is confirmed.

17. In the result, the appeal of the Revenue is allowed.

This Order pronounced in Open Court on	01/04/2026
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Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Ahmedabad; Dated 01/04/2026

TANMAY, Sr. PS

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2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
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