

आयकरअपीलीयअधिकरण 'बी' न्यायपीठ,चेन्नई। IN THE INCOME TAX APPELLATE TRIBUNAL 'B' BENCH: CHENNAI श्री इंतूरी रामा राव लेखासदस्य एवं श्री मनु कुमार गिरि, न्यायिक सदस्य BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER AND SHRI MANU KUMAR GIRI, JUDICIAL MEMBER		
आयकर अपील सं./ITA No. 1398/Chny/2026 निर्धारण वर्ष/Assessment Year: 2018-19		
M/s. Akara Foundation for Education and Research No. 7/5, 3rd Floor, Meenakshi Apartments, P.S. Sivasamy Street, Mylapore, Chennai-600004	v.	The Income Tax Officer, Exemptions Ward-1, Chennai
[PAN: AAFTA0924N]		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Assessee)
अपीलार्थी की ओर से/ Appellant by	:	Mr. S. Ramesh, FCA
प्रत्यर्थी की ओर से /Respondent by	:	Mr. Banoth Akhil Ram Naik, JCIT
सुनवाई की तारीख/Date of Hearing	:	19.08.2026
घोषणा की तारीख /Date of Pronouncement	:	14.10.2026

आदेश / O R D E R

PER MANU KUMAR GIRI, JM:

The captioned appeal filed by the assessee is directed against the order passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "the Ld. CIT(A)"], dated 15.01.2026 confirming the assessment order passed u/s. 143(3) of the Income Tax Act, 1961 ("the Act"), for the Assessment Year ("AY") 2018-19.



2. The assessee has raised the following grounds of appeal as under:-

- 1. The Order of the Ld. CIT(A) is against the law and facts of the case.*
- 2) The Ld. CIT(A) has erred in disallowing the sum of Rs. 33,00,000 u/s.. 13(3), contending that the assessee trust is not eligible to claim exemption u/s..s 11 and 12 due to the alleged violation of Section 13, on the ground that the founder of the trust received salary of Rs. 33,00,000, which exceeds the limit of Rs. 50,000 u/s.. 13(3) of the Income-tax Act, 1961.*
- 3) The Ld. CIT(A) failed to appreciate the fact that the auditors committed a mistake while filling and e-filing Form No. 10B, whereas no such sum of Rs. 33,00,000 was received by the specified person during the relevant Assessment Year.*
- 4) The Ld. CIT(A) failed to appreciate the fact that the auditors, upon noticing the mistake, filed a revised Form No. 10B with the correct facts.*
- 5) The Ld. CIT(A) erred in not considering the ledger copy of salary payments made by the assessee trust to various employees during the year, which does not include any specified persons.*
- 6) The assessee craves leave to raise any further grounds that may be adduced at the time of hearing of this appeal.*

3. Brief facts of the case are that the assessee is a private charitable trust established on 08.01.2016 and registered u/s.. 12A of the Income Tax Act, 1961 ("the Act"). Its objects include providing education, relief to the poor and other charitable activities within the meaning of section 2(15) of the Act. For the Assessment Year (AY) 2018-19, the assessee filed its return of income on 31.10.2018, declaring total income at Nil. The case was selected for limited



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scrutiny to examine transactions with specified persons u/s.. 13(3) of the Act.

3.1 During the assessment proceedings, the Assessing Officer (AO) noticed that the original audit report in Form No. 10B, filed on 31.10.2018, disclosed salary of Rs.33,00,000/- paid to the founder trustee, a specified person u/s.. 13(3)(a) of the Act. The AO treated the reported payment as a violation of section 13(1)(c), read with section 13(2)(c), and denied exemption u/s..s 11 and 12 of the Act. Accordingly, an addition of Rs.33,00,000 was made to the assessee's total income by assessment order dated 20.04.2021, passed u/s. 143(3) read with section 144B, and a tax demand of Rs.11,40,645 was raised.

3.2 The assessee contended that the disclosure in the original Form No. 10B was an inadvertent clerical error committed by its auditors. It submitted that no salary was paid to the founder trustee during the relevant year and that a revised Form No. 10B dated 15.03.2021 had been filed correcting the error. According to the assessee, salary was paid only to regular employees of the educational institutions run by the trust.

4. The Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ["CIT(A)"], by order dated 15.01.2026, dismissed the appeal and sustained the addition of Rs.33,00,000/-. The Id. CIT(A), after considering the assessment order, the assessee's submissions, the original and revised Form No. 10B, and the AO's remand report dated 10.12.2025, upheld the assessment for the following reasons:

- (i). Evidentiary value of the original Form No. 10B: The original audit report, filed contemporaneously with the return of income



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and certified by the auditor, disclosed payment of Rs.33,00,000 to the founder trustee. The CIT(A) considered this disclosure material evidence of a benefit extended to a specified person.

(ii). Belated revision of the audit report: The revised Form No. 10B was filed on 15.03.2021, after the AO issued a notice dated 26.02.2021 specifically seeking details of transactions with specified persons. The CIT(A) considered the revision an afterthought and held that it could not, by itself, displace the original disclosure.

(iii). Absence of corroborative evidence: According to the CIT(A), the assessee had failed to produce adequate contemporaneous books of account, bank statements, payment vouchers, TDS records and other independent evidence before the AO to establish that no payment had been made to the founder trustee. The salary ledgers produced at the appellate stage were considered insufficiently corroborated.

(iv). Application of sections 13(1)(c) and 13(2)(c): The CIT(A) held that income or property of a charitable trust applied for the benefit of a specified person attracts the restrictions u/s.. 13. A payment to such a person in excess of reasonable remuneration for services rendered may be treated as an application of income for that person's benefit.

(v). Burden of establishing the facts: Relying on *CIT v. Shri Sosa Trading Co.*, 42 taxmann.com 384 (Guj.), the CIT(A) observed that the reasonableness of remuneration paid to a trustee must be established through cogent evidence and cannot be supported merely by an assertion.



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Accordingly, the CIT(A) upheld the denial of exemption u/s..s 11 and 12, sustained the addition of Rs.33,00,000/- and dismissed the appeal.

Aggrieved, the assessee preferred the present appeal before the Tribunal.

5. The Id. Authorised Representative (AR) of the assessee submitted as follows:

(i). Genuine clerical error in Form No. 10B: The disclosure of salary of Rs.33,00,000/- to the founder trustee in the original Form No. 10B was an inadvertent mistake committed by the auditors. No such salary was actually paid to the founder trustee during the relevant previous year.

(ii). Correction through revised audit report: Upon discovering the error, the auditors filed a revised Form No. 10B dated 15.03.2021, correcting the erroneous disclosure. The revised report and the financial statements for FY 2017-18 were relied upon to establish the correct factual position.

(iii). Salary paid only to regular employees: The assessee submitted that the salary payments during the year were made to employees of the educational institutions operated by the trust and that none of the employees listed in the salary matrix fell within the category of specified persons u/s.13(3) of the Act.

(iv). Failure to examine the books of account: The AO erred in relying exclusively on the original Form No. 10B without verifying the salary ledger, financial statements and other records that could establish whether the alleged payment had actually been made. The assessee argued that a reporting error



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in an audit form should not override the underlying books of account and actual transactions.

(v). Medical circumstances of the managing trustee: It was submitted that the managing trustee, Mr. Palani, was suffering from chronic heart disease and undergoing continuous medical treatment during the relevant period. Consequently, the assessee contended that certain facts could not be adequately explained before the lower authorities.

(vi). Judicial precedents: The assessee relied upon *ACIT v. Sri Ahobila Mutt Charities* (ITA No. 1234/Chny/2020) and *Director of Income Tax (Exemptions) v. Dawoodi Bohra Jamat* (2015) 372 ITR 239 (Bom.), contending that corrected audit reports and revised forms should be considered where the original reporting is erroneous and the correction is supported by the underlying records.

The Id. AR accordingly prayed that the addition of Rs.33,00,000 be deleted, the exemption claimed u/s. 11 and 12 be allowed, and the assessment order be set aside to the extent challenged in the appeal.

6. The Id. Departmental Representative (DR), supporting the orders of the lower authorities, would submit that:

(a). The original Form No. 10B, filed along with the return of income on 31.10.2018, specifically disclosed salary of Rs.33,00,000 paid to the founder trustee. Being a contemporaneous report certified by an auditor, the disclosure constituted material evidence against the assessee.

(b). The revised Form No. 10B was filed only on 15.03.2021, after the AO had issued a notice dated 26.02.2021 calling for



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details of transactions with specified persons. The timing of the revision raised doubts regarding the assessee's explanation that the original disclosure was merely a clerical error.

(c). The assessee had not adequately substantiated its explanation before the AO through contemporaneous bank statements, payment vouchers, TDS records, an auditor's confirmation or other independent evidence demonstrating that no salary had been paid to the founder trustee.

(d). The mere filing of a revised audit report could not automatically establish the correctness of the revised particulars or negate the evidentiary value of the original report. The assessee was required to substantiate the alleged error with reliable primary evidence.

(e). If the payment had actually been made to the founder trustee and was excessive or unreasonable having regard to the services rendered, the restrictions u/s. 13(1)(c) and 13(2)(c) would apply, subject to the statutory requirements.

The Id. DR would therefore pray that the order of the CIT(A) be upheld and the assessee's appeal be dismissed.

7. We have heard the rival submissions and perused the material available on record, including the assessment order, the order of the Id. CIT(A), the grounds of appeal and the written submissions filed by the assessee. The issue requiring adjudication is whether the addition of Rs.33,00,000 and the consequential denial of exemption u/s. 11 and 12 are sustainable merely on the basis of the disclosure made in the original Form No. 10B, notwithstanding the assessee's contention that the disclosure was erroneous and was subsequently corrected. Section 13(3) of the Act identifies the persons whose



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relationship with a charitable or religious trust may attract the restrictions contained in section 13. Section 13(2)(c) deals with a payment of salary, allowance or other remuneration to a specified person in excess of what may reasonably be paid for the services rendered. It is, therefore, necessary to distinguish between the identification of a specified person u/s. 13(3), the actual payment made to such person and the question whether the payment, if made, exceeded reasonable remuneration for the services rendered. Section 13(3) does not prescribe a general salary ceiling of Rs.50,000/-. The mere fact that a person is a founder or trustee does not, by itself, establish a violation of section 13(2)(c). The relevant facts and statutory conditions must be examined before the consequences u/s. 13 are determined. Further, the effect of a violation on the exemption claimed u/s. 11 and 12 must be determined in accordance with the applicable provisions of the Act. The extent of the income affected cannot be determined solely by treating every payment to a specified person as automatically excessive.

8. In the present case, the AO made the addition primarily on the basis of the original Form No. 10B, which disclosed salary of Rs.33,00,000/- paid to the founder trustee. The Id. CIT(A) upheld the addition on the ground that the revised Form No. 10B was filed after the AO had raised a specific query and that the assessee had not produced sufficient contemporaneous evidence to substantiate the alleged clerical error. On the other hand, the assessee has consistently contended that no salary was paid to the founder trustee and that the original disclosure was an inadvertent reporting error committed by its auditors. The assessee has relied upon the



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revised Form No. 10B dated 15.03.2021, the financial statements and the salary matrix to support its explanation.

9. In our considered view, the original Form No. 10B is a relevant piece of evidence and cannot be disregarded merely because a revised report was subsequently filed. At the same time, the revised report cannot be rejected solely on the ground that it was filed after the commencement of scrutiny proceedings. The evidentiary value of both reports must be examined in conjunction with the underlying books of account and other relevant material. The decisive question is whether the sum of Rs.33,00,000/- was actually paid or credited as remuneration to the founder trustee during the relevant previous year, or whether the original disclosure resulted from an identifiable reporting error. This question requires verification of the trust's salary ledger, general ledger, financial statements, bank statements, payment vouchers, payroll records and applicable TDS records, wherever relevant. The auditor's explanation regarding the circumstances in which the original report was prepared and subsequently revised would also be relevant.

10. Even if a payment to the founder trustee is established, the matter would not end there. The AO would be required to examine the nature of the payment, the services actually rendered, the responsibilities discharged by the trustee and the reasonableness of the remuneration in the facts of the case. If the payment was not made, the alleged benefit to the specified person cannot be presumed merely from an erroneous disclosure in Form No. 10B without proper examination of the evidence. Conversely, if the payment was made, the assessee must establish the relevant facts and the applicability of the statutory provisions; the mere



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description of the payment as salary would not, by itself, establish its reasonableness. We also find that the assessee's reliance on the revised audit report and salary matrix raises factual matters requiring proper verification. Since the Id.CIT(A) has recorded that adequate corroborative evidence was not produced before the AO, while the assessee maintains that the relevant records establish that salary was paid only to regular employees, a final conclusion on this disputed factual issue should not be drawn without examining those records.

11. In the interest of substantial justice, we consider it appropriate to restore the matter to the file of the AO for fresh examination. The AO shall:

1. Verify the original and revised Form No. 10B, together with the financial statements and books of account of the assessee trust for the relevant previous year.
2. Examine whether any amount of Rs.33,00,000 was actually paid or credited to the founder trustee and determine the nature and purpose of the entry.
3. Consider the salary matrix, relevant ledger accounts, bank statements, payment records, TDS particulars and the auditor's explanation, wherever available and relevant.
4. If payment to the founder trustee is established, examine its reasonableness with reference to the services rendered and the applicable provisions of section 13, after providing the assessee a reasonable opportunity to substantiate its case.
5. Determine the consequential eligibility for exemption u/s. 11 and 12 in accordance with law, recording specific findings on the evidence and the applicable statutory provisions.



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The assessee shall cooperate in the proceedings and produce the relevant supporting documents. The AO shall not reject the revised Form No. 10B merely because it was filed after the issue of a notice, nor shall the revised report be accepted as conclusive without verification of the underlying records. The issue shall be decided afresh on the basis of the evidence and in accordance with law. We express no final opinion at this stage on whether the alleged clerical error is genuine or whether the conditions for exemption u/s. 11 and 12 stand satisfied. All contentions of the parties on the merits are left open for consideration by the AO.

12. In the result, in view of the foregoing discussion, the grounds of appeal raised by the assessee are allowed for statistical purposes.

Order pronounced in the open court on the 14th day of October, 2026 in Chennai.

Sd/-

(इंतूरी रामा राव)

(INTURI RAMA RAO)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 14th October, 2026.

SNDP, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य/**JUDICIAL MEMBER**

SANDEE

P KUMAR

Digitally signed by
SANDEEP KUMAR

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