

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'C' NEW DELHI**

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER  
AND  
SH. PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**I.T.A. No. 3530/DEL/2017 (A.Y 2010-11)  
I.T.A. No. 3531/DEL/2017 (A.Y 2011-12)  
I.T.A. No. 3532/DEL/2017 (A.Y 2012-13)  
I.T.A. No. 3533/DEL/2017 (A.Y 2013-14)  
I.T.A. No. 3534/DEL/2017 (A.Y 2014-15)**

**(THROUGH VIDEO CONFERENCING)**

Hariday Flat No. 70, Pocket-1 Sector-2, Dwarka New Delhi AAATH1934J <b>(APPELLANT)</b>	Vs	ADIT (Exemption) Trust Circle-II Civic Centre, New Delhi <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>None</b>
<b>Respondent by</b>	<b>Sh. Vivek Vardhan, Sr. DR</b>

<b>Date of Hearing</b>	<b>04.10.2021</b>
<b>Date of Pronouncement</b>	<b>11.10.2021</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

These five appeals are filed by the assessee against the order dated 27/03/2017 passed by CIT (A)-40, New Delhi for assessment years 2011-12 to 2014-15 respectively.

2. The grounds of appeal are as under:

**I.T.A. No. 3530/DEL/2017 (A.Y 2010-11)**

1. *"That the order of the Learned CIT (Appeal) is bad in law and against the statutory provisions.*
2. *That the Learned CIT Appeal has erred in confirming the additions of Rs.*

*55,73,410 made by the Assessing officer on account of payment/ Remittance made to the University of Texas, USA as not an application of income u/s 11(1) (C) of the Income Tax Act, 1961.”*

**I.T.A. No. 3531/DEL/2017 (A.Y 2011-12)**

- “1. That the order of the Learned CIT (Appeal) is bad in law and against the statutory provisions.*
- 2. That the Learned CIT Appeal has erred in confirming the additions of Rs. 36,62,871/- made by the Assessing officer on account of payment/ Remittance made to the University of Texas, USA as not an application of income u/s 11(1) (C) of the Income Tax Act, 1961.”*

**I.T.A. No. 3532/DEL/2017 (A.Y 2012-13)**

- “1. That the order of the Learned CIT (Appeal) is bad in law and against the statutory provisions.*
- 2. That the Learned CIT Appeal has erred in confirming the additions of Rs. 35,25,428/- made by the Assessing officer on account of payment/ Remittance made to the University of Texas, USA as not an application of income u/s 11(1) (C) of the Income Tax Act, 1961.”*

**I.T.A. No. 3533/DEL/2017 (A.Y 2013-14)**

- “1. That the order of the Learned CIT (Appeal) is bad in law and against the statutory provisions.*
- 2. That the Learned CIT Appeal has erred in confirming the additions of Rs. 39,60,766/- made by the Assessing officer on account of payment/ Remittance made to the University of Texas, USA as not an application of income u/s 11(1) (C) of the Income Tax Act, 1961.”*

**I.T.A. No. 3534/DEL/2017 (A.Y 2014-15)**

- “1. That the order of the Learned CIT (Appeal) is bad in law and against the statutory provisions.*
- 2. That the Learned CIT Appeal has erred in confirming the additions of Rs. 32,84,213/- made by the Assessing officer on account of payment/ Remittance made to the University of Texas, USA as not an application of income u/s 11(1) (C) of the Income Tax Act, 1961.”*

3. The issues are identical in all the appeals. Therefore, we are taking Assessment Year 2010-11. Hriday ("the assessee Society") is a Registered Society registered with the Registrar of Societies, Delhi. The assessee Society is

a voluntary organization of public health professionals, social scientists and lawyers engaged in advocacy and research aiming to promote health awareness and inform health activism among youth in India. The assessee society works in collaboration with World Health Organization, the Ministry of Health and Family Welfare and the Ministry of Environment and Forestry, Government of India. The basic vision of the assessee society is to inspire and inform the young person to act as change agents for improving the health of the society, resulting in the healthy youth and a healthy nation. Its mission is to design, develop, implement and evaluate strategies addressing health related issues and to disseminate, built capacity, promote advocacy and health activism besides replication of successful health programs and practices with other working towards similar groups. The key focus areas of the appellant society are as under.

- a. Research
- b. Awareness
- c. Advocacy
- d. Capacity building
- e. Legal guidance

The assessee's case was selected for scrutiny u/s 143(2) of the Income tax Act, 1961 and the assessment order u/s 143(3) of the Income Tax Act, 1961 was passed on 21.03.2013 at an income of Rs. 70,78,989 by denying the benefit of Section 11 & Section 12. The facts of the case are that during the year under consideration a sum of Rs. 55,73,410 was spent towards sub grant to University of Texas with its principal place of business at Houston, Texas, USA. The Assessing Officer while passing the assessment order- mentioned in the assessment order that The University of Texas is a foreign Entity , not being registered u/s 12A or FCRA, 1976, Therefore transfer of funds to the extent of Rs. 55,73,410 attracts the Provision of Section 11(1)(C ) of the Income tax Act, 1961. It was explained before the Assessing Officer by the Assessee that Section 11(1)(C ) of the Income Tax Act, 1961 relates to the income to be exempt u/s. 11(1)(c) as directed by the Board by general or special order

whereas in the case of the assessee society the funds have been spent based on the sub grant to the University of Texas, USA out of the funds received earlier from National Institute of Health (NIH) which have already been included in the receipt side of the Income and Expenditure Account hence section 11(1)(c) is not applicable in the present case. The assessee submitted before the Assessing Officer that all the details of the expenses as incurred by the appellant society have been produced for verification before the Assessing officer. The Assessing officer disallowed the amount remitted to the University of Texas, USA as not an application of income u/s 11(1)(C) of the Income Tax Act, 1961 and further based on above denied the benefit of Section 11 & Section 12 to the appellant society.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT (A) partly allowed the appeal of the assessee.

5. Despite giving notice for hearing for 04.10.2021, none appeared on behalf of the assessee. In-fact, the notice has been returned back with the remark that 'the party is not living at the address mentioned'. The assessee has not filed any new address in Form 36. Therefore, we are taking up all the appeal and take it cognizance of the assessment order and the order of the CIT(A) and the submission made by the assessee before the Revenue Authorities.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard Ld. DR and perused all the relevant materials available on record. It is pertinent to note that the CIT(A) has categorically given the finding that for the Assessment Years 2011-12, 2012-13, 2013-14 and 2014-15. The assessee's application of income of trust outside India was denied and thus Exemption u/s 11 was denied to the assessee on account of violation in terms of Section 11 (1)(c), Exemption under this Section cannot be denied under this

Section and only the portion of income to the extent not applied in India will not be eligible for Exemption. The Assessing Officer was directed according by the CIT(A). The assessee has challenged the denial of Exemption u/s 11 for violation of Section 13(1) (C) read with Section 13(3) wherein the CIT(A) has held that the Assessing Officer is not justified in deny the benefit of Exemption u/s 11 of the Act and thus deleted the disallowance of Rs. 5,46,226/- made in Assessment Year 2014-15 being 15% of salary made u/s 40A(2) (a) and allowed the said ground of the assessee. As related to floating the levy of interest u/s 234B and Section 234D. The CIT(A) relied the decision of the Hon'ble Apex Court in case of Anjuman H Glass Ware 252 ITR 1 CIT India Hindustan Bulb Carriers 259 ITR 449 as well as the decision of the Hon'ble Kerala High Court in case of Kerala Chemicals and Proteins 323 ITR 584 Madras High Court in case of Infrastructure Finance Company Ltd. 340 ITR 580 for the period after 1/6/2003 irrespective of the Assessment Year involved as it was introduced w.e.f. that date and thus, dismiss the grounds of the assessee. The decision of the CIT(A) on each of the issues were elaborated and the same are as per law. Thus, there is no need to interfere with the findings of the CIT(A). Hence, all the appeals of the assessee's are dismissed.

8. In result, all the five appeals of the assessee are dismissed.

**Order pronounced in the Open Court on this 11<sup>th</sup> Day of October, 2021**

**Sd/-**

**(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER**

**Sd/-**

**(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Dated: 11/10/2021

*R. Naheed \**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI