IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

Before Shri Shailendra Kumar Yadav, Judicial Member
and Shri R.K. Panda, Accountant Member

ITA No.304/PN/2011
(Assessment Year 2006-07)

Bharati kala Academy,
Bharati Vidyapeeth Bhawan,
Lal Bahadur Shastri Road, Navi Peth, Pune 411 030. .. Appellant
PAN No. AAATB 1351R

Vs.

Dy. Commissioner of Income Tax,
Central Circle-2(2), Pune. .. Respondent

ITA No.320/PN/2011
(Assessment Year 2006-07)

ACIT,
Central Circle-2(2), Pune. .. Appellant

Vs.

Bharati kala Academy,
Bharati Vidyapeeth Bhawan,
Lal Bahadur Shastri Road, Navi Peth, Pune 411 030.
PAN No. AAATB 1351R .. Respondent

Assessee by	:	Sri Sunil Pathak
Department by	:	Sri S.K. Singh
Date of Hearing	:	17 -10-2012
Date of Pronouncement	:	31 -12-2012

ORDER

PER BENCH :

These are cross appeals. The first one is filed by the assessee and the second one filed by the revenue and are directed against the order dated 31-12-2010 of the CIT(A) Central, Pune relating to Assessment Year 2006-07. For the sake of convenience, these were heard together and are being disposed of by this common order.

2. Facts of the case, in brief, are that the assessee M/s.Bharati Kala Academy (in short 'BKA') was established through a deed of trust dated 24-02-1982 by Dr. Patangrao Shripatrao Kadam. The trust was created with the objectives relating to promotion of Indian culture and financial help to the young individuals and

organisations in the field of social, cultural & artistic work. The assessee trust was entitled to exemption u/s.11. However, for the impugned assessment year the AO disallowed the exemption u/s.11 on the ground that (a) Form No.10 was not filed by the assessee along with the return of income (b) the assessee has violated the provisions of section 13(1)(d) r.w.s.11(5) in view of purchase of shares of Sagareshwar Soot Girni & Krishna Verala Magaswargiya Soot Girni (cooperative societies) and (c) It has further violated the provisions of section 13(1)(d) r.w.s.11(5) in view of loan given to Bharatiya Vidyapeeth amounting to Rs.35 lakhs. The AO, thereafter, treated the donations received through issue of coupons by taxing the same as income u/s.68 and also did not grant benefit of 15%/25% of the income which according to the assessee is allowable as per law.

3. In appeal the learned CIT(A) held that amount of Rs.35 lakhs given by the assessee to Bharati Vidyapeeth was a loan and was not an investment or a deposit and therefore the assessee trust had not violated the provisions of section 13(1)(2)r.w.s.11(5). He, however, upheld the action of the AO in denying the benefit of section 11 for the other reasons recorded by the AO.

4. Aggrieved with such order of the CIT(A) the assessee as well as the revenue are in appeal before us with the following grounds :

<u>Grounds by the Assessee (ITA No. 304/PN/2011) :</u>

> *1. The learned CIT(A) failed to appreciate that the assessee trust was duly registered u/s 12A and therefore, it was duly entitled to the exemption u/s.11.*
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> *2. The learned CIT(A) erred in confirming the addition in respect of donation received through issue of coupons by taxing it as income of the appellant u/s. 68, without appreciating that the said donations were received towards the corpus of the trust and hence, exempt u/s l1(l)(d) of the Act.*
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> *2.1 The learned CIT(A) failed to appreciate that the assessee trust had given affidavits of a few volunteers and the donors in support of the donations received and even the coupons issued clearly indicated that donations were towards the corpus of the trust and accordingly, the same could not be taxed as income of the trust.*
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> *2.2 The learned CIT(A) failed to appreciate that the donations received were genuine and the same were received towards the corpus of the trust and accordingly, there was no reason to tax the said donations as income of the trust.*

3. The learned CIT(A) erred in holding that the assessee trust was not entitled to claim exemption u/s 11 on the ground that the Form No. 10 was not filed by the assessee along with the return of income.

3.1 The learned CIT(A) erred in holding that Form No. 10 filed by the assessee was not valid since it was accompanied by a resolution dated 03.05.2007 for application of the income and he held that the resolution should have been passed by the appellant before the date of for filing the return for the relevant year.

3.2 The learned CIT(A) further erred in holding that the assessee trust was not permitted to file Form No. 10 in the reasst. proceedings u/s. 147 or 153C and hence, the Form No. 10 filed by the assessee in the reasst. proceedings was not as per law and the learned A.O. had rightly denied the exemption to the assessee trust.

3.3 The learned CIT(A) erred in holding that the decision of Supreme Court in the case of Nagpur Hotel Owners' Association [247 ITR 201] was not applicable to the facts of the present case and hence, the exemption u/s 11 was rightly denied by the A.O. on account of failure to file Form No. 10 along with the return of income.

3.4 The learned CIT(A) failed to appreciate that -

a. In the original return of income, the assessee had treated certain donations received as a capital receipt and thereby the expenditure incurred was much more than the income earned and hence, the assessee had no occasion to file the Form No. 10 along with the return of income.

b. The assessee trust had submitted the Form No. 10 along with necessary resolutions in the reasst. proceedings and therefore, there was no reason to reject the same and deny the exemption u/s 11 to the assessee trust.

c. At the time of filing the original return, the income of the appellant trust was NIL and hence, there was no question of any accumulation of income and accordingly, a resolution for accumulation of the income could not have been passed before filing of the original return.

d. There was no such prohibition that the assessee trust could not submit Form No. 10 in reasst. proceedings u/s 147 or 153C and hence, the reasoning given by the learned CIT(A) for rejecting the Form No. 10 was totally incorrect.

3.5 The learned CIT(A) erred in holding that the Form No. 10 was not valid since the resolution passed by the trustees did not mention specific purpose for which the amounts were accumulated.

3.6 The learned CIT(A) failed to appreciate that the resolution passed by the trustees was perfectly valid and the amounts were accumulated for achieving the objects of the trust and hence, the reasoning given by the learned CIT(A) for rejecting the Form No. 10 was not valid in law.

4. The learned CIT(A) erred in holding that the appellant trust was not entitled to the exemption u/s 11 as it had violated the provisions of sections 13(l)(d) r.w.s 11(5).

4.1 The learned CIT(A) failed to appreciate that the shares of Sagareshwar Soot Girni & Krishna Verala Magaswargiya Soot Girni (co-operative societies) were acquired in the course of achieving the objects of the trust and they could not be considered to be investments / deposits made by the assessee.

4.2 The learned CIT(A) erred in not appreciating that -

a. The amounts involved in these shares were very small compared to the total assets of the assessee trust and hence, they could not be considered as investments / deposits.

b. The shares of the said society did not yield any dividend to the appellant trust right from the day of investment and this would also indicate that they were not investments made with an intention to earn any income therefrom.

c. Overall investment of the assessee trust and other trusts of the group was very meager and the investment was not made in order to gain the control over the organization.

d. In the assts. completed u/s 143(3) prior to the search in the cases of other trusts of the same group, the dept. did not raise any objection on this issue and had granted the exemption u/s 11.

4.3 Accordingly, the learned CIT(A) was not justified in holding that the appellant trust had made any investments in violation of section l3(1)(d) r.w.s 11(5).

4.4 Without prejudice to the above Grounds, the learned CIT(A) ought to have taxed only the income arising from investments made in violation of section 11(5) and not the entire income of the assessee trust.

5. The learned CIT(A) erred in not granting benefit of 15% of the income which is allowable as per law to be set apart and accordingly, the income computed should have been reduced by 15%.

6. The learned CIT(A) erred in not granting the basic exemption limit as well as the various slab rates prescribed by the statute while computing the tax on the total income.

7. The learned CIT(A) erred in not appreciating that no interest was chargeable u/s 234B as per law.

8. The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal."

<u>Grounds by the Revenue (ITA No. 320/PN/2011):</u>

"1. In the facts and circumstances of the case and in law, the Ld. CIT(A) erred in holding that the amount of Rs.35 lakhs given by the assessee to Bharati Vidyapeeth was a loan and was not an investment or a deposit and it did not, therefore, violate the provisions of section 13(1)(d) of the I.T. Act.

2. The Ld.CIT(A) failed to appreciate the fact that, in its balance sheets, the assessee itself had shown the amount as "Deposit with Bharati Vidyapeeth"/"Deposit with Building Construction"/"Deposit for Building Maintenance".

3. Without prejudice to the above grounds, in the facts and circumstances of the case and in law, the Ld. CIT(A) erred in holding that a loan given by one charitable trust to another with similar object is an application of income and it will not, therefore, attract the provisions of section 13(1)(d)."

5. We have heard the rival arguments made by both the sides. So far as the grounds raised by the revenue are concerned we find the same are identical to the grounds of appeal by the Revenue in the case of Patangrao Kadam Pratishthan vide

ITA No.312/PN/2011 for A.Y. 2006-07. We, vide our order of even date have dismissed the grounds raised by the revenue by holding as under :

> *"9.5 We have considered the rival arguments made by both the sides, perused the orders of the AO and the CIT(A) and the Paper Book filed on behalf of the assessee. We have also considered the various decisions cited before us. There is no dispute to the fact that the assessee trust had given loan to Bharati Vidyapeeth amounting to Rs.55 lakhs which is being shown in the balance sheet since 1993-94 onwards as deposit for building construction under the head "investment". There is also no dispute to the fact that Bharati Vidyapeeth is also a charitable trust and basically engaged in the field of education. There is also no dispute to the fact that the AO at Para 9.2 of the assessment order has mentioned the submissions of the assessee that they have received interest on such deposit and therefore provisions of section 13 are not attracted.*
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> *9.6 It is the case of the revenue that by advancing such loan/deposit to Bharati Vidyapeeth the assessee trust has invested the funds in modes other than those specified u/s.11(5) of the I.T. Act and therefore there was violation of provisions of section 13(1)(d) of the I.T. Act. It is the case of the assessee that it has given the loan to another trust having similar objects and has earned interest on such loan and that granting of such loan is outside the purview of section 11(5). It is also the submission of the learned counsel for the assessee that such advance was neither a deposit nor an investment and therefore granting of such loan is outside the purview of section 11(5).*
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> *9.7 We find the learned CIT(A) while allowing the claim of the assessee has stated that the amount of Rs.55 lakhs given by the assessee to Bharati Vidyapeeth was a loan and was not an investment or a deposit and therefore there is no violation of provisions of section 13(1)(d) of the I.T. Act. He further held that a loan given by one charitable trust to another with similar object is an application of income and it will not attract the provisions of section 13(1)(d). The relevant observations of the learned CIT(A) given in assessment year 99-00 which has followed in A.Y. 2005-06 and for the impugned assessment year reads as under :*
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>> *"6.4 In this year, the violation u/s 11(5) r.w.s 13(1)(d) is only on account of loan given by the appellant to Bharati Vidyapeeth of Rs.55 lakhs. The appellant has submitted that the loan was given in order to help Bharati Vidyapeeth and therefore, it was not an investment. The appellant has submitted that the loan advanced was in furtherance of the objects of the trust and hence, the benefit u/s 11 should not be denied on this ground.*
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>> *6.5 I have gone through the assessment order relating to the above mentioned grounds of appeal. I have also considered the submissions made by the appellant in respect of these grounds and other material available on record. I am of the considered view that a loan given by one charitable trust to another with similar object cannot be treated as an investment but an application of income. This view was held by Delhi ITAT in the case of Alarippu (60 ITD 478). This decision of ITAT was confirmed by Delhi High Court in 244 ITR 358. In the judgment in 244 ITR 358 Hon'ble Delhi High Court pointed out that the words 'Investment', 'Deposit' and 'Loan' have different meaning. Relevant portion of the judgment is reproduced below :*
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>>> *"The expressions used in both the provisions quoted above, are 'investment' and 'deposit'. The former expression means to layout money in business with a view to obtain an income or profit. Deposit, on the other hand, means that which is placed anywhere, as in any one's hands for safe-keeping, something entrusted to the care of another. These two expressions have been used in a cognate sense and have to be understood as such. In order to constitute an investment the amount laid down should be capable of any result of any income, return or profit to the investor and in every case of investment, the intention and positive act on the part of the investor should be to earn such income, returns, profit in order to constitute an investment, the monies shall be laid out in such a manner as to acquire some species of property which would bring in an income to the investor.*

A loan, on the other hand, is granting temporary use of money, or temporary accommodation. The words investment', "deposit" and 'loan' are certainly different. Sec. 11 (5) refers to pattern of investment by the appellant. Sec. 11(5) was introduced by the Finance Act, 1983, w.e.f 1st April, 1983, i.e., for and from asst. yr. 1983-84. It prescribes the forms and modes of investing and depositing money referred to in s. 11 (2)(b). Subsequently, new forms and modes have been added. Sec. 13(1)(d) as amended by the Finance Act, 1983, provides that the income of any charitable or religious trust or institution will not be entitled to exemption under ss. 11 and 12, if certain conditions stipulated therein are not complied with. The word deposit does not cover transaction of loan which can be more appropriately described as directed bailment. The essence of deposit is that there must be a liability to return it to the . party by whom or on whose behalf has been made on fulfillment of certain conditions. In the commercial sense, the term is used to indicate the aforesaid transaction as deposit of money for employment, in business, deposits for value to initiate security for deposit of title deeds, similar documents as security for loan, deposit of money bills in a bank in the ordinary course of business of current account and deposits of a sum at interest at a fixed deposit in a bank."

6.5.1 in Baidya Nath Plastic Industries (P) Ltd. & Ors. vs. K.L. Anand, ITO (1998) 146 CTR (Del) 421 : (1998) 230 ITR 522 (Del) it was pointed out that the distinction between "loan" and "deposit" is that in the case of the former it is ordinarily the duty of the debtor to seek out the creditor and-to repay the money according to the agreement, while in the case of the latter it is generally the duty of the depositor to go to the banker or to the depositee, as the case may be, and make a demand for it.

6.5.2 A Division Bench of Delhi High Court in case of Director of IT vs. Pariwar Sewa Sansthan (2002) 254 ITR 268 (Del) has held that no question of law arises from the order of Tribunal holding that there was no violation of provision s. 13(1)(d) of Act, 1961 where loan had been given by one society to another society having similar objects.

6.6 In view of the aforesaid exposition of law I am of the view that the loan given by the appellant to the Bharati Vidyapeeth was neither an 'investment' nor a 'deposit'. Therefore, there is no violation of provision of section 11(5) by the appellant by giving loan to Bharati Vidyapeeth amounting to Fts.55 lakhs. Therefore, grounds of appeal No.9, 9.1 & 9.2 are allowed. However, this allowance is subject to the observation given in para 5.7.

9.8 We find the Hon'ble Delhi High Court in the case of DIT Vs. ACME Educational Society reported in 326 ITR 146 has observed as under :

"10. Having heard both the parties at length, we are of the view that the issue that arises for consideration in the present case is whether advancing of an interest-free temporary loan by one society to another society having similar objects is an "investment" or a "deposit" and whether the assessee-society had violated the provisions of s. 13(l)(d)r/w s. 11(5) of Act, 1961 ? 11. Secs. 11(5) and 13(l)(d) of the Act, 1961 are reproduced hereinbelow :

"1 1. Income from property held for charitable or religious purposes ....

(5) The forms and modes of investing or depositing the money referred to in cl. (b) of sub-s. (2) shall be the following, namely :

(i) investment in savings certificates as defined in cl. (c) of s. 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(ii) deposit in any account with the Post Office Savings Bank;

(iii) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation : In this clause, 'scheduled bank' means the SBI constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under s. 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under s. 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(iv) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(v) investment in any security for money created and issued by the Central Government or a State Government;

(vi) investment in debentures issued by, or on behalf of, any company or corporation both the principle whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(vii) investment or deposit in any (public sector company) :

Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(A) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(B) such other investment or deposit shall be deemed to be an investment made under this clause for the period upto the date on which such investment or deposit becomes repayable by such company;

(viii) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is (eligible for deduction under) cl. (iii) of sub-s. (1) of s. 36;

(ix) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is (eligible for deduction wider) cl. (viii) of sub-s. (1) of s. 36;

(ixa) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation : For the purposes of this clause,——

(a) 'long-term finance' means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(b) 'public company' shall have the meaning assigned to it in s. 3 of the Companies Act, 1956 (1 of 1956);

(c) 'urban infrastructure' means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;

(x) investment in immovable property.

Explanation : 'Immovable property' does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;

(xi) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(xii) any other form or mode of investment or deposit as may be prescribed."

12. This Court in the case of Director of IT (Exemption) vs. Alarippu (2000) 161 CTR (Del) 432 : (2000) 244 ITR 358 (Del) has pointed out that the words "investment", "deposit", and "loan" have different meanings. The relevant observations in the said judgment are reproduced hereinbelow :

> *"The expressions used in both the provisions quoted above, are 'investment' and 'deposit'. The former expression means to layout money in business with a view to obtain an income or profit. Deposit, on the other hand, means that which is placed anywhere, as in any one's hands for safe-keeping, something entrusted to the care of another. These two expressions have been used in a cognate sense and have to be under-stood as such. In order to constitute an investment the amount laid down should be capable of any result of any income, return or profit to the investor and in every case of investment, the intention and positive act on the part of the investor should be to earn such income, returns, profit in order to constitute an investment, the monies shall be laid out in such a manner as to acquire some species of property which would bring in an income to the investor. A loan, on the other hand, is granting temporary use of money, or temporary accommodation. The words 'investment', "deposit" and 'loan' are certainly different. Sec. 11(5) refers to pattern of investment by the assessee. Sec. 11(5) was introduced by the Finance Act, 1983, w.e.f. Ist April, 1983, i.e., for and from asst. yr. 1983-84. It prescribes the forms and modes of investing and depositing money referred to in s. 11(2)(b). Subsequently, new forms and modes have been added. Sec. 13(1)(d) as amended by the Finance Act, 1983, provides that the income of any charitable or religious trust or institution will not be entitled to exemption under ss. ll and 12, if certain conditions stipulated therein are not complied with. The word deposit does not cover transaction of loan which can be more appropriately described as directed bailment. The essence of deposit is that there must be a liability to return it to the party by whom or on whose behalf has been made on fulfilment of certain conditions. In the commercial sense, the term is used to indicate the aforesaid transaction as deposit of money for employment, in business, deposits for value to initiate security for deposit of title deeds, similar documents as security for loan, deposit of money bills in a bank in the ordinary course of business of current account and deposits of a sum at interest at a fixed deposit in a bank."*

13. In Baidya Nath Plastic Industries (P) Ltd. & Ors. vs. K.L. Anand, ITO (1998) 146 CTR (Del) 421 : (1998) 230 ITR 522 (Del) a learned Single Judge of this Court pointed out that the distinction between "loan" and "deposit" is that in the case of the former it is ordinarily the duty of the debtor to seek out the creditor and to repay the money according to the agreement, while in the case of the latter it is generally the duty of the depositor to go to the banker or to the depositee, as the case may be, and make a demand for it.

14.'A Division Bench of this Court in case of Director of IT vs. Pariwar Sewa Sansthan (2002) 254 ITR 268 (Del) has held that no question of law arises from the order of Tribunal holding that there was no violation of provision s. 13(1)(d) of Act, 1961 where loan had been given by one society to another society having similar objects.

15. Keeping in view the aforesaid exposition of law, we are of the opinion that interest-free loan of Rs.90,50,000 given by the assessee-society to Nav Bharti Educational Society *does not violate s. 13(1)(d) r/w s. 11(5) of Act, 1961 as the said loan was neither an "investment" nor a "deposit". This is more so as both the societies had similar objects and were registered under s. 12A of Act, 1961 and had approvals under s. 80G of the Act, 1961. The fact that the loan was interest-free and had been subsequently returned is also significant. In view of the order passed by the CIT(A) in the case of Nav Bharati Educational Society, Ms. Bansal's allegation with regard to "entry scam" also does not survive. Consequently, there is no substantial question of law involved in the present appeal and accordingly, appeal is dismissed but with no order as to costs."*

9.9 We find the Pune Bench of the Tribunal in the case of National Engg. Coordination Committee vs. ACIT reported in 43 ITD 612 has observed as under :

"61. We shall now deal with the issue regarding the forms and modes of investing or depositing the money as per s. 11(5) r/w s. l3(l)(d) of the Act. At the outset, we make it clear that this issue cannot arise in asst. yrs. 1984-85 and 1985-86. In giving effect to the order of the CIT which did not give any finding or direction regarding this issue, the Asstt. CIT could not have travelled beyond the mandate given by the CIT. The learned Departmental Representative very rightly did not dispute this fact. It is a moot question whether the assessee will loose the benefit of exemption under s. 11 on account of the fact that it had made advances in accordance with s. ll (5) r/w s. 13(1)(d) of the Act. Sec. 11(5) prescribes the modes of investing or depositing the money referred to in cl. (b) of sub-s. (2) of s. l1. Sec. l1(2)(b) refers to the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-s. (5), and it required that such money should be invested or deposited in the forms or modes prescribed under s. 11(5). The question that arose is, whether the money advanced to ACIL is part of the money "applied". The question of its investment under s. 11(5) will not arise. It is therefore, necessary first to see what is the amount that was "applied". Both the Asstt. CIT and the CIT and the CIT(A) have equated the word "applied" to "spend". The CIT(A) in para 32 of his order states that the amount advanced to ACIL cannot be considered as an application of the assessee's income. He states that the amounts have not gone out irretrievably and, therefore, it cannot be considered as an expenditure and hence there is no application of money. This approach of the CIT(A) regarding the application of income is erroneous and not keeping with the decided cases cited by the assessee's representative and even the Board's circular No. 100 dt. 29th Jan., 1973. If the interpretation of the CIT was correct then the Board's instructions to consider the loans, scholarships granted by the educational trusts as application of income would become erroneous and contrary to law.

62. As per the settled legal position, which has been laid down in numerous decisions, it is clear that any amount which is laid out by the charitable trust or institution for achieving its charitable object constitutes an application of income to charitable purposes irrespective of whether the amount in question has been laid out irretrievably or whether the amount continued to belong to the charitable trust or the institution or it is recoverable by it. Consequently if the charitable trust lends and advances money for the purposes which are connected with its basic charitable object then such advances even though recoverable by the charitable trust from the persons to whom the same has been paid would still constitute application of income in the year in which the advances are made. We have now to see whether the amount which has been advanced by NECC to ACIL achieved the charitable purpose of NECC. We have to see the memorandum of association of ACIL and we find that its objects are harmonious and supplemental to the basic object of NECC. The activities of ACIL are also confined to operation and transaction for the benefit of poultry industry as a whole. The ACIL has been promoted by NEC for the purpose of carrying out the market operations in eggs with object of ensuring that there should not be disparity of supply and demand in different areas.

63. It was emphasised on behalf of the assessee that NECC's basic object of protecting the interest of poultry farmers would never be fully achieved unless and until it was possible to carry out such market operations in eggs on large scale. The shareholders of NECC are exclusively the poultry farmers as explained to us by Shri Ganesh. The main reason why ACIL was promoted is because the assessee could not undertake the activity of stabilising the market process which would have required large scale operations of purchase and sale of eggs. There was also need to construct cold storage in order to *provide them the facilities. Large funds were necessary for these purposes. For securing financial assistance from the financial institutions public limited company would have been suitable. For all these reasons, the assessee promoted the ACIL. We find that the assessee does not hold any share in this concern.*

64. We also find that the NECC is the division of ACIL for the purpose of carrying on its activities. There is no allegation or suggestions made even by the Department that the advances which were made by the NECC were for ulterior motive. We therefore, hold that the amounts advanced to ACIL constituted monies applied by the NECC to its charitable object and activities. Further the minutes of NABARD meeting wherein the said proposal to carry out the market operations was discussed and contains considerable light on the matter which makes it clear that by establishing ACIL and by carrying on regular operations the interest of poultry industries as a whole would be correctly protected. We also agree with the assessee's submissions, which were very fairly accepted by the learned Departmental Representative, that the provisions of s. 11(5) r/w s. l3(l)(d) have no application at all whereas monies or income of the trust have already been applied to the charitable objects of the trust. Consequently, the mischief of s. l3(l)(d) is not attracted to the present case for that reason alone. It was also contended by the assessee's representative that in any event the amounts advanced by NECC to ACIL are neither investments nor deposits as these two terms signify the lending the monies for the purposes of earning income or return in some form such as by way of interest, dividends, rents or capital gains. In the present case, the monies have been advanced to ACIL on interest-free basis and not with the object of earning any income or return therefrom but only in order to further the basic object of NECC. Further in our opinion, the decision of the Andhra Pradesh High Court in the case of Polisetty Somasundaram Charities is of no application. In that case, it was held that the term "investment" implies that there is certain amount of risk involved in the money in question. In the present case the assessee did not advance any amount to ACIL as a lender involving such risk. Further, in lending the investment, risk is undertaken for the purpose of getting return such as interest, profit, capital gains etc. In the present case, there was no such object involved. For this reason also, we are of the opinion that such advances made by the NECC to ACIL did not constitute any investment.

65. The word "deposit" is used in association with the word "invest" and following the principles of "noscitur a sociis". The word "deposit" has to be understood in the cognate sense with the word "invest". Thus the word "deposit" considered with reference to the return thereof and the wider meaning of deposit, i.e., "repaying money for safe keeping or by way of security performer's obligation" cannot be considered to be relevant. It can only be considered that the advancing of money is not for the purpose of earning interest. In the context of s. 11(5) this would appear to be a proper and correct interpretation. If we apply this meaning to deposit then also the advances to ACIL cannot be considered to be "deposit" because no monetary interest was accepted therefrom. We therefore, hold that the advances to ACIL cannot be a deposit either. We are supported in this finding by the Finance Minister's Budget Speech and the notes on clauses explaining the provisions of the Finance Act, 1983 which clearly brings out that the expression "invest" or "deposit" used in s. l3(1)(d) only directs the modes of investment. Once it is held that the advances made to ACIL was not investment or deposits and advances made in the asst. yr. 1988-89 also stand on the same footing. The question of contravention of s. 11(5) r/w s. 13(1)(d) does not arise and there would be no question of withdrawing the exemption under s. 11 and sub-section of income to the maximum marginal rate also does not arise. Incidentally, we may observe that the Asstt. CIT was not justified in applying the maximum marginal rate to the gross receipts. Even though exemption under s. 11 was not available, it does not mean that the income of the assessee-trust became equal to that of gross receipts. The income of the assessee in that case should have been computed in a commercial sense, i.e., after allowing all the expenses that were laid out for the purposes of activities. If the entire activity of the assessee was business income then the Asstt. CIT should have applied the maximum rate to the business income separately computed by him and not to the gross receipts. These observations are only incidental and they would arise only if there was any justification for applying the maximum rate at all.

66. For the reasons given above, we hold that the assessee was entitled to claim exemption under s. 11 for all the years under appeals. We, therefore, set aside the order of the CIT Pune under s. 263 for the asst. yrs. 1984-85 and 1985-86 and of the CIT(A) for the asst. yrs. 1984-85 to 1988-89 and those of the Asstt. CIT for the asst. yrs. 1984-85 to 1988-89. We direct the Asstt. CIT to compute the income of the assessee after allowing the exemption.

67. In the result, the appellant succeeds and all the appeals are allowed."

9.10 We find the Lucknow Bench of the Tribunal in the case of Kanpur Subhash Shiksha Samiti Vs. DCIT reported in 11 ITR 23 has observed that granting of a loan to another society with similar objects is neither an investment nor a deposit and hence, exemption u/s.11 was allowable.

9.11 We find the Hon'ble Delhi High Court in the case of Alarippu reported in 244 ITR 358 has also taken a similar view by upholding the order of the Tribunal. In that case the assessee trust had advanced Rs. 50,000/- as a temporary loan to another similar society on the direction of the donor. The AO denied the exemption u/s. 11 to the assessee holding that there was infringement of provision of section 13(1)(d) r.w.s.11(5). On appeal, the Tribunal held that the advance was neither a deposit nor an investment and there was no infringement of provisions of section 13(1)(d). On further appeal, the Hon'ble High Court dismissed the appeal filed by the Revenue on the ground that no question of law arises out of the order of the Tribunal since the conclusion was essentially factual. The Hon'ble Delhi High Court in the above case has also upheld the decision of the Tribunal that loan given by one trust to another trust with similar objects was an application of income and was not an investment or a deposit.

9.12 We find the Hon'ble Delhi High Court in the case of DIT Vs. Pariwar Sewa Sanstha reported in 254 ITR 260 has held that no question of law arises from the order of the Tribunal holding that there was no violation of provisions of section 13(1)(d) of the I.T. Act, 1961 where loan was given by one society to another society having similar objects.

9.13 We find the Hon'ble Gujarat High Court in the case of Sarladevi Sarabhai Trust reported in 172 ITR 698 has held that if the trust makes an investment in the course of attaining its objectives, that investment is an application of income and it cannot be considered to be violative of section 11(5).

9.14 Since in the instant case the assessee trust had advanced loan of Rs.55 lakhs to Bharati Vidyapeeth, another charitable trust also engaged in educational activity, therefore, in view of the decisions cited above, we hold that granting of such loan by the assessee trust to another trust is neither a deposit nor an investment and therefore there is no violation of provisions of section 13(1)(d) of the I.T. Act. In this view of the matter and in view of the detailed discussion by the learned CIT(A) we find no infirmity in his order. Accordingly, we uphold the order of the learned CIT(A) on this issue. Grounds raised by the revenue are accordingly dismissed."

Since facts in the instant case are identical to the case decided above, therefore, following the same ratio, the above grounds raised by the revenue are dismissed.

6. So far as the assessee's grounds are concerned, the learned counsel for the assessee did not press Grounds of appeal Nos.1 & 8 being general in nature for which the learned DR has no objection. Accordingly, the above two grounds are dismissed as not pressed.

7. Ground of appeal Nos. 3 to 3.6 relates to the order of the CIT(A) in upholding the action of the AO in denying the claim of exemption u/s.11 on account of belated filing of Form No.10.

7.1 After hearing both the sides, we find the above grounds are identical to the Ground of appeal No.3 to 3.6 in the case of Patangrao Kadam Pratishthan vide ITA No.289/PN/2011 for A.Y. 2006-07. We, vide our order of even date have decided the issue and allowed the grounds raised by the assessee by holding as under :

> *"12. We have considered the rival arguments made by both the sides, perused the orders of the AO and the CIT(A) and the Paper Book filed on behalf of the assessee. We find the AO treated the application in Form No.10 for accumulation u/s.11(2) as not valid because it was filed late and not along with the return of income and further it was filed before him and not before the CIT. We find the learned CIT(A) upheld the action of the AO on the ground that the Form No.10 was not filed by the assessee along with the return of income. Further, it was accompanied by a resolution dated 03-05-2007 for application of income and the resolution should have been passed before the due date for filing the return of income. He further observed that the assessee has filed such Form No.10 during reassessment proceedings. Distinguishing the various decisions he upheld the action of the AO. It is the submission of the learned counsel for the assessee that the assessee had filed the return of income claiming the coupons donation as corpus donation not chargeable to tax. It was only when the AO during assessment proceedings opined that such donation will be treated as revenue receipt, the assessee filed Form No.10 during the assessment proceedings. It is also the submission of the learned counsel for the assessee that Form No.10 filed before the completion of assessment is valid and should be accepted.*
>
> *12.1 We find the Hon'ble Supreme Court in the case of CIT Vs. Nagpur Hotel Owners Association reported in 247 ITR 201 (SC) has observed as under :*
>
> > *"It is abundantly clear from the wording of sub-section (2) of section 11 that it is mandatory for the person claiming the benefit of section 11 to intimate to the assessing authority the particulars required, under rule 17 in Form No. 10 of the Rules. If during the assessment proceedings, the Assessing Officer does not have the necessary information, question of excluding such income from assessment does not arise at all. As a matter of fact, this benefit of excluding this particular part of the income from the net of taxation arises from section 11 and is subjected to the conditions specified therein. Therefore, it is necessary that the assessing authority must have this information at the time he completes the assessment. In the absence of any such information, it will not be possible for the assessing authority to give the assessee the benefit of such exclusion and once the assessment is so completed, in our opinion, it would be futile to find fault with the assessing authority for having included such income in the assessable income of the assessee. Therefore, even assuming that there is no valid limitation prescribed under the Act and the Rules even then, in our opinion, it is reasonable to presume that the intimation required under section 11 has to be furnished before the assessing authority completes the concerned assessment because such requirement is mandatory and without the particulars of this income, the assessing authority cannot entertain the claim of the assessee under section 11 of the Act, therefore, compliance with the requirement of the Act will have to be any time before the assessment proceedings."*
>
> *12.2 We find the Delhi 'F' Bench of the Tribunal in the case of Additional Director of Income Tax (Exemption) Vs. Manav Bharati Child Institute & Child Psychology reported in 20 SOT 517 (Delhi) has observed as under :*

"4. As regards cross-objection by assessee, it is submitted that the assessee was claiming exemption under s.10(23C)(vi) of the Act but pending the approval by the appropriate authorities, exemption under ss.11 and 12 was claimed. However, since it was not foreseen that the exemption under alternate provision was required to be claimed, in respect of surplus, the assessee could not file Form No.10 for accumulation of surplus income which will result into taxability of surplus fund after exhausting the exemption available under ss.11 and 12 of the Act. Learned counsel for the assessee has submitted that the assessment proceedings pending before the Tribunal is continuation of assessment proceedings and hence, even during such pendency Form No.10 can be filed which may be considered while computing income under the Act. For this purpose, reliance was placed on the decision of Gujarat High Court in the case of CIT VS. Mayur Foundation 92005) 194 CTR (Guj) 197 : (2005) 274 ITR 562 (Guj).

5. We are in agreement with the submissions of learned counsel for assessee. The assessee could not envisaged that application for registration under s.10(23C)(vi) would be delayed. Thus, the assessee was required to make alternate claim under ss.11 and 12 of the Act. As held by Hon'ble Gujarat High Court in the case of Mayur Foundation (Supra), assessment proceedings are complete when appeal against order of assessment is decided by the Tribunal. Various courts have time and again held that though filing of Form No.10 is mandatory to claim exemption under ss. 11 and 12 of the Act, the same can be filed at any time during the pendency of assessment proceedings. If so filed the benefit of accumulation of income for charitable purpose cannot be denied. We accordingly direct the AO to compute the income after allowing exemption under ss. 11 and 12 of the Act and also considering the application in Form No.10 regarding accumulation of surplus income for the purpose of objects of the trust".

12.3 In view of the above decisions we are of the considered opinion that the assessee can file Form No.10 at any time before completion of the assessment. We, therefore, do not agree with the findings of the CIT(A) that the assessee was not permitted to file Form No.10 in the reassessment proceedings and that the decision of Hon'ble Supreme Court in the case of Nagpur Hotel Owner's Association is not applicable in the facts of the present case. This view of ours derives support from the decision of Hon'ble Gujarat High Court in the case of ACIT Vs. Stock Exchange of Ahmadabad wherein the Hon'ble High Court, after considering the decision of Hon'ble Supreme Court in the case of Nagpur Hotel Owner's Association (Supra) has held that the assessee by filing Form No.10 along with revised return and before completion of assessment has duly complied with requirements of section 11(2) and was therefore entitled to benefit of section 11. The relevant observation of Hon'ble High Court reads as under :

"8. From the facts and contentions noted hereinabove, the sole question that arises for consideration is whether the Tribunal was justified in holding that the time limit prescribed for filing Form No.10 under rule 17 of the Rules read with section 11(2) of the Act is directory. In the present case, it is an admitted position that the assessee had filed Form No.10 as required under rule 17 of the Rules alongwith the revised returns filed in respect of all the assessment years under consideration. Thus, admittedly, the forms had been submitted before the assessment came to be completed. At this juncture reference may be made to the decision of the Supreme Court in the case of ***Commissioner of Income-Tax vs. Nagpur Hotel Owners' Association*** *(supra) on which reliance had been placed by the learned counsel for the revenue, wherein it has been held thus:*

"6. It is abundantly clear from the wordings of sub-section (2) of Section 11 that it is mandatory for the person claiming the benefit of Section 11 to intimate to the assessing authority the particulars required, under Rule 17 in Form 10 of the Act. If during the assessment proceedings the Assessing Officer does not have the necessary information, question of excluding such income from assessment does not arise at all. As a matter of fact, this benefit of excluding this particular part of the income from the net of taxation arises from Section 11 and is subject to the conditions specified therein. Therefore, it is necessary that the assessing authority must have this information at the time he completes the assessment. In the absence of any such information, it will not be possible for the assessing authority to give the assessee the benefit of such exclusion and once the assessment is so completed, in our opinion, it would be futile to find fault with the

assessing authority for having included such income in the assessable income of the assessee. Therefore, even assuming that there is no valid limitation prescribed under the Act and the Rules even then, in our opinion, it is reasonable to presume that the intimation required under Section 11 has to be furnished before the assessing authority completes the assessment concerned because such requirement is mandatory and without the particulars of this income the assessing authority cannot entertain the claim of the assessee under Section 11 of the Act, therefore, compliance with the requirement of the Act will have to be any time before the assessment proceedings. Further, any claim for giving the benefit of Section 11 on the basis of information supplied subsequent to the completion of assessment would mean that the assessment order will have to be reopened. In our opinion, the Act does not contemplate such reopening of the assessment. In the case in hand it is evident from the records of the case that the respondent did not furnish the required information till after the assessments for the relevant years were completed. In the light of the above, we are of the opinion that the stand of the Revenue that the High Court erred in answering the first question in favour of the assessee is correct, and we reverse that finding and answer the said question in the negative and against the assessee."

9. Examining the facts of the present case in the light of the principles enunciated in the above decision, as noticed earlier, the assessee filed Form No.10 under rule 17 of the Rules at the time of filing revised returns in respect of each of the assessment years under consideration. Thus, evidently, the requirements of section 11(2) of the Act had been complied with before the completion of the assessments. Therefore, while completing the assessments for the assessment years under consideration, the Assessing Officer had the necessary information in respect of the claim for exemption under section 11 of the Act made by the assessee before him. Thus, this is not a case where information in respect of the claim of the assessee for giving benefit of section 11 of the Act was furnished after the assessments for the relevant assessment years were completed. Under the circumstances, the present case is squarely covered by the aforesaid decision of the Supreme Court. The assessee was, therefore, entitled to the benefit of section 11 of the Act on the basis of the information supplied by it prior to framing of the assessment orders.

10. It may also be noted that this court in the case of ***C.I.T. v. Mayur Foundation*** *(supra) has held that the assessment proceedings cannot be said to be complete and are pending till the appeal is heard and disposed of by the Tribunal and accordingly held that the Tribunal was justified in considering a new ground by the assessee claiming benefit under section 11 of the Act during the course of the appeal. As rightly urged by the learned counsel for the assessee, in the present case, the assessee stands on an even stronger footing inasmuch as the particulars in Form No.10 under rule 17 of the Rules had been furnished alongwith the revised return before the assessment came to be completed.*

11. In the light of the above discussion, it is not possible to state that there is any legal infirmity in the impugned order of the Tribunal in holding that rule 17 of the Rules is directory in nature and in holding that the assessee had duly complied with the requirements of sub-section (2) of section 11 of the Act."

12.4 In the light of the above discussion we are of the considered opinion that since the Form No.10 was filed prior to completion of assessment, therefore, the assessee is entitled to benefit of section 11 of the I.T. Act. We therefore set aside the order of the CIT(A) on this issue and the grounds raised by the assessee are allowed."

Since facts in the instant case are identical to the facts of the case cited above, therefore, following the same ratio, the above grounds raised by the assessee are allowed.

8. Ground of appeal Nos. 4 to 4.4 by the assessee relates to the order of the CIT(A) in upholding the action of the AO that there is violation of provisions of section 13(10(d) r.w.s. 11(5) in view of purchase of shares of Sagareshwar Soot Girni & Krishna Verala Magaswargiya Soot Girni (cooperative societies) and therefore the assessee is not entitled to exemption u/s.11.

8.1 After hearing both the sides, we find the above grounds are identical to the Ground of appeal No.4 to 4.4 in the case of Patangrao Kadam Pratishthan vide ITA No.289/PN/2011 for A.Y. 2006-07. We, vide our order of even date have decided the issue and allowed the grounds raised by the assessee by holding as under :

> *"14. We have considered the rival arguments made by both the sides, perused the orders of the AO and the CIT(A) and the Paper Book filed on behalf of the assessee. We have also considered the various decisions cited before us. There is no dispute to the fact that the assessee has purchased the shares of Rs.2,00,000/- each in the two cooperative societies namely, Krishna Verala Magaswargiya Soot Girni Ltd. & Sagareshwar Sahakari Soot Girni Ltd. We find the AO was of the opinion that due to purchase of the shares of the 2 cooperative societies there is violation of provisions of section 13(1)(d) r.w.s.11(5) and therefore the assessee trust is not entitled to exemption u/s.11. We find the learned CIT(A) has upheld the action of the AO. It is the submission of the learned counsel for the assessee that the purchase of shares of these cooperative societies cannot be said to be investment made by the assessee since the total shareholding in the capital of the cooperative societies is hardly 1% and the majority of the shareholding is by the Government of Maharastra. Further, the assessee has not received any interest and considering the corpus funds of the trust at 4.26 Crores the investment of 4 lakhs in the shares of these two cooperative societies cannot be treated as an investment. It is also the submission of the learned counsel for the assessee that there was no objection by the revenue in the past and only during the assessment proceedings for 1999-2000 to 2006-07 that the revenue has raised objections. It is also the submission of the learned counsel for the assessee that on being pointed out by the AO that there is violation of provisions of section 11(5) the assessee liquidated the shares and got over the alleged objection of violation of provisions of section 11(5).*
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> *14.1. The submission of the learned counsel for the assessee that it has liquidated the shares of the co-operative societies and this fact was brought to the notice of the CIT(A) in the written submissions filed before him was not controverted by the Revenue.*
>
> *14.2 We find the Hon'ble Delhi High Court in the case of Agrim Charan Foundation (Supra) has held as under :*
>
>> *"The dispute relates to the assessment year 1995-96 in respect of an assessee, which is a charitable trust.*
>>
>> *2. The controversy lies in a very narrow compass.*
>>
>> *For the assessment year in question, the assessee filed its return of income along with the audit report, balance-sheet, etc. The Assessing Officer noted that for the purpose of claiming exemption under section 11 of the Act, certain deposits made with S.M. Finance Limited and Unitech Limited were included. These two were not public undertakings, and, therefore, according to the Assessing Officer, the deposits were made in violation of the provisions contained in section 11(5) of the Act and therefore the benefit under*

sections 11 and 12 read with section 13(1)(d) of the Act was denied. The petitioner filed an appeal before the Commissioner of Income-tax (Appeals) (in short "the CIT(A)"). The same was dismissed ex parte holding that there was no compliance on the date fixed and there was nothing wrong with the order of the Assessing Officer. The assessee preferred an appeal before the ITAT, Delhi Bench "B", Delhi (in short the "Tribunal").

3. The factual position that was highlighted before the Tribunal was that after incorporation of the trust and its registration, charitable work was being undertaken. The donations for the corpus of the trust were obtained by account payee cheques. Such corpus funds have been invested as fixed deposits with public sector undertakings, viz., UTI, SAIL, NTPC, etc. During the year under consideration, the two concerns, viz., Unitech Ltd. and S.M. Finance Ltd., gave forms to the appellant inviting deposits. In the forms it was specifically mentioned that these concerns were authorised to accept deposits from charitable trusts. On the basis of this information certain deposits were made with these two concerns. An advice was sought for from a chartered accountant, who advised that the deposits could be kept with these two concerns and exemption under sections 11 and 12 would be available. However, when, at the time of assessment, the Assessing Officer pointed out to the chairman of the trust that these two concerns did not have necessary approval from the Government to accept deposits from charitable trusts, the assessee immediately withdrew the deposits from these two concerns. However, exemption was denied on the ground that there was violation of the provisions. The Tribunal noted that this was a case where the two concerns may have flouted the Government rules and the assessee in the absence of any mala fides and being not linked with the concerns, should not be benefits. The Tribunal, keeping in view the objects for which section 11(5) has been enacted and the factual background, more particularly, the mention made in the forms of the two concerns, and the act of the assessee in immediately withdrawing the amounts on being made aware that the two concerns were not permitted to receive deposits, allowed the assessee's appeal.

4. Learned counsel for the Revenue submitted that there has been a breach of the statutory provisions and, therefore, the bona fides should not have weighed with the Tribunal.

5. We have considered the submissions made. We find that the Tribunal has referred to various factual aspects as elaborated above in coming to the conclusion that the assessee could not be faulted for the misrepresentation of those two concerns. We do not find any infirmity in the order of the Tribunal to warrant interference.

The appeal is accordingly disposed of."

Since in the instant case the assessee, on being pointed out by the AO that there is violation of provisions of section 11(5), has liquidated the shares, therefore, respectfully following the decision of the Hon'ble Delhi High Court in the case of Agrim Charan Foundation (Supra) we are of considered opinion that the benefit of exemption u/s.11 cannot be denied to the assessee.

14.3 So far as the decision of Hon'ble Bombay High Court in the case of Sharadaben Bhagubhai Mafatlal Public Charitable Trust (Supra) is concerned, the same in our opinion is not applicable to the facts of the present case. In that case the assessee Trust was holding shares in non-government companies after 30th November 1983 and did not dispose of or convert the shares into permissible investment by 31-03-1993. Accordingly it was held that there was contravention of section 13(1)(d) r.w. proviso (iia) in Asst. Year 1993-94 and accordingly benefits of section 11 was denied. However, in the instant case the facts are completely different. There was no objection by the Revenue in the past on this issue and the assessee has promptly liquidated the shares on being objected to by the Revenue. Therefore, the decision relied on by learned DR is distinguishable and not applicable to the facts of the present case. We accordingly set-aside the order of the learned CIT(A) on this issue and the grounds raised by the assessee are allowed."

Since facts in the instant case are identical to the facts of the case cited above, therefore, following the same ratio, the above grounds raised by the assessee are allowed.

9. Ground of appeal Nos. 2 to 2.2 by the assessee relates to the order of the CIT(A) in treating the donations received through issue of coupons as income u/s.68 of the I.T. Act.

9.1 After hearing both the sides, we find the above grounds are identical to the Ground of appeal No.2 to 2.2 in the case of Patangrao Kadam Pratishthan vide ITA No.289/PN/2011 for A.Y. 2006-07. We, vide our order of even date have discussed the issue and the grounds raised by the assessee have been decided by holding as under :

> *"19. We have considered the rival arguments made by both the sides, perused the orders of the AO & CIT(A) and the Paper Book filed on behalf of the assessee. Since the coupon donation receipts do not contain the complete address of the donors, the name of the recipient on behalf of the Trust and there is no written direction by the donor to treat the donation towards corpus of the Trust, therefore, we are of the considered opinion that such donations cannot be considered as corpus donations. However, the alternate submission of the learned counsel for the assessee that the same should be considered as revenue receipts is acceptable. Since in the preceeding paras we have held that there is no violation of provisions of section 11(5) r.w.s. 13(1)(d) and also held that exemption u/s.11 cannot be denied for late filing of Form No.10, therefore, since the donations are treated as revenue receipts, it does not make any difference. We, therefore, hold that exemption u/s.11 is allowable on such donations. The grounds by the assessee are decided accordingly."*

Since facts in the instant case are identical to the facts of the case cited above, therefore, following the same ratio, the above grounds raised by the assessee are allowed accordingly.

10. In the result, the appeal filed by the revenue is dismissed and the appeal filed by the assessee is allowed.

Pronounced in the open court on this the 31st day of December, 2012.

Sd/-	**Sd/-**
(SHAILENDRA KUMAR YADAV)	**(R.K. PANDA)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Pune Dated: the December 2012
satish

Copy of the order forwarded to :

1. Assessee
2. Department
3. CIT(A) Central, Pune
4. CIT Central, Pune
5. The D.R, “B” Pune Bench
6. Guard File

By order

// True Copy //

Senior Private Secretary
ITAT, Pune Benches, Pune