IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

BEFORE Dr. O.K. NARAYANAN, VICE-PRESIDENT AND SHRI S.S.GODARA , JUDICIAL MEMBER

I.T.A.Nos. 84 & 85/Mds/2013
AND
C.O.Nos. 38 & 39/Mds/2013
Assessment years : 2005-06 & 2006-07

The Deputy Commissioner of Income-tax, Central Circle-I(3), Chennai – 600 034.	Vs.	M/s. Jeppiaar Remibai Charitable Trust, No.12, Ganapathy Street, Royapettah, Chennai – 14. PAN AABTJ0837D
(Appellant)		(Respondent/Cross objector)

Appellant by : Shri Guru Bashyam, IRS, JCIT
Respondent by : Shri T. Banusekar, FCA

Date of Hearing : 22nd April, 2013
Date of Pronouncement : 22nd April, 2013

<u>O R D E R</u>

<u>PER BENCH</u>

These are two appeals filed by the Revenue and two cross objections by the assessee. The relevant assessment years are 2005-06 and 2006-07. The appeals and the cross objections are directed against the common order of the Commissioner of Income-tax(Appeals)-I at Chennai, dated 22.10.2012. The appeals and the cross objections arise out of the assessments completed under sec. 143(3), read with sec.147 of the Income-tax Act, 1961.

2. The only ground raised in the appeals filed by the Revenue is that the Commissioner of Income-tax(Appeals) has failed to note that the income of the assessee is donation and there is no nexus of expenses to earn this income and the expenditure claimed by the assessee is only an application of income and not genuine expenditure incurred to earn the income. The amounts for the assessment year 2005-06 are donation of ₹ 7,06,000/- and expenses of ₹ 6,71,200/-. The figures for the next assessment year 2006-07 are donation of ₹ 23,48,980/- and expenses of ₹22,65,000/-.

3. It is seen that the Assessing Officer has levied tax on the gross receipts of the assessee and not on the total income. As rightly held by the Commissioner of Income-tax(Appeals), tax is chargeable on the total income of the assessee. In view of

sec.167A, the assessee has to be assessed in the status of an A.O.P., where shares of the members are indeterminate; i.e. Maximum Marginal Rate. The Commissioner of Income-tax(Appeals) has given the right direction to the Assessing Officer to compute the total income of the assessee and thereafter levy tax at the Maximum Marginal Rate. The Commissioner of Income-tax(Appeals) has correctly rectified the mistake committed by the Assessing Officer in levying the tax on the entire gross receipts of the assessee.

4. We do not find any infirmity in the order passed by the Commissioner of Income-tax(Appeals). The order of the Commissioner of Income-tax(Appeals) is just and proper in law.

5. In the cross objections filed by the assessee, the ground is that the Commissioner of Income-tax(Appeals) has failed to appreciate that the order of the Assessing Officer is without jurisdiction, contrary to facts and law and opposed to the principles of equity, natural justice and fair play. These grounds are rejected as not pressed.

6. In result, the appeals filed by the Revenue and the cross objections filed by the assessee are dismissed.

Orders pronounced in the open court at the time of hearing on Monday, the 22nd of April, 2013 at Chennai.

Sd/-	Sd/-
(S.S.GODARA)	(Dr.O.K.NARAYANAN)
Judicial Member	Vice-President

Chennai,
Dated the 22nd April, 2013

mpo*

Copy to: 1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR
6. GF.