IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, JAIPUR
(PHYSICAL HEARING)

Before: Shri Kuldip Singh, Judicial Member
And Shri Prakash, Accountant Member

ITA Nos: 649, 651, 652, 654, 657 & 658/JPR/2025
Assessment Years: 2014-15 to 2018-19

Urban Improvement Trust Sikar, Silver Jublee Road, Basant Vihar, Sikar **PAN: AAATU6139J (Appellant)**	Vs	ACIT, Circle-Exemption, Jaipur **(Respondent)**

Assessee Represented: **Sh. Shrawan Kumar Gupta, Adv. & Sh. Ashok Kumar Gupta, Adv.**
Revenue Represented: **Sh. Shravan Kumar Meena, CIT**

Date of hearing : 23-09-2026
Date of pronouncement : 22-10-2026

आदेश/ORDER

PER BENCH:-

1. These six appeals by the Assessee are directed against six separate orders of the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as "the learned CIT(A)"] all dated 24.02.2025, arising out of the assessment orders passed by the Assessing Officer (hereinafter referred to as "the AO") under section 147 read with section 144B of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for the assessment years 2014-15 to 2019-20. The particulars are as under:

ITA No.	A.Y.	Date of assessment order	Addition / income assessed (Rs)	Result before the learned CIT(A)
649/JPR/2025	2014-15	30.03.2022	23,35,42,328	Dismissed
651/JPR/2025	2015-16	30.03.2022	90,21,085	Dismissed
652/JPR/2025	2016-17	29.03.2022	2,43,88,312	Dismissed
654/JPR/2025	2017-18	20.03.2022	1,09,58,053	Dismissed
657/JPR/2025	2018-19	20.03.2022	3,17,37,590	Dismissed
658/JPR/2025	2019-20	02.02.2024	7,52,22,813	Partly allowed

2. The issues in these appeals are common, and they were heard together. They are, therefore, disposed of by this common order. The appeal for assessment year 2014-15 is taken as the lead case, and assessment year 2019-20 is dealt with separately to the extent its facts differ.

3. The grounds of appeal raised by the Assessee before us in the memorandum of appeal in Form No. 36 for assessment year 2014-15 read as under:

> *"1. The impugned order u/s 147 of the I.T. Act, 1961 dated 30.03.2022 as well as the action taken and notices u/s 147/148 or other notices are illegal, bad in law and on the facts of the case for want of jurisdiction and various other reasons or bared by limitation, without proper approval/satisfaction of the higher authorities and further contrary to the real facts of the case, hence the same may kindly be quashed.*
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> *2. The ld. CIT(A) has grossly erred in law as well as on the facts of the case in confirming the action of the ld. AO in denying the deduction or claim of benefit of exemption u/s 11 and 12 and taxing the income by ignoring the material evidence available on record or not considering the same in their true perspective and sense. Hence the deduction or exemption so denied or addition so made by the AO and confirmed by the ld. CIT(A) is being totally contrary to the provisions of law*

and facts on the record and hence the ld. AO may kindly be directed to allow the exemption or claim or benefit u/s 11.

3. The ld. CIT(A) has also grossly erred in law as well as on the facts of the case in confirming the action of the ld. AO in denying the deduction or claim of benefit of exemption u/s 10(20) as well as u/s 10(46) of the Act and taxing the income by ignoring the material evidence available on record or not considering the same in their true perspective and sense. Hence the deduction or exemption so denied or addition so made by the AO and confirmed by the ld. CIT(A) is being totally contrary to the provisions of law and facts on the record and hence the ld. AO may kindly be directed to allow the exemption or claim or benefit u/s 10(20) as well as u/s 10(46) of the IT Act.

4. Rs.23,35,42,328/-: The ld. CIT(A) has grossly erred in law as well as on the facts of the case in confirming the addition of Rs.23,35,42,328/- made by the ld. AO by ignoring the various provisions of the act and material evidence available on record or not considering the same in their true perspective and sense. Hence the additions so made by the AO and confirmed by the ld. CIT(A) is being totally contrary to the provisions of law and facts on the record and hence the same may kindly be deleted in full.

5. The ld. AO has grossly erred in law as well as on the facts of the case in charging interest u/s 234A, 234B and 234C. The appellant totally denies it liability of charging of any such interest. The interest, so charged, being contrary to the provisions of law and facts, may kindly be deleted in full.

6. The appellant prays your honour indulgences to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing."

4. The grounds for assessment years 2015-16 to 2018-19 are identical, except for the dates of the assessment orders and the amounts of the additions. For assessment year 2019-20, grounds 1, 3, 5 and 6 are similar, while grounds 2 and 4 read as under:

"2. The ld. CIT(A) has grossly erred in law as well as on the facts of the case in restore back the matter to AO to verify the claim or benefit of exemption u/s 11 and 12 in view of grant the registration u/s 12A despite 12A Registration Certificate available before him and ignoring the material evidence available on record or not considering the same in their true perspective and sense. Hence the matter so restored to AO by the ld. CIT(A) is being totally contrary to the provisions of law and facts on the record and hence the ld. AO may kindly be directed to allow the exemption or claim or benefit u/s 11.

4. Rs.7,52,22,813/-: The ld. CIT(A) has grossly erred in law as well as on the facts of the case in restore back the addition of Rs.7,52,22,813/- made to the ld. AO despite allowed by him, in view of grant the registration u/s 12A despite 12A Registration Certificate available before him and ignoring the material evidence available on record or not considering the same in their true perspective and sense. Hence the matter so restored to AO by the ld. CIT(A) is being totally contrary to the provisions of law and facts on the record and hence the ld. AO may kindly be directed to deleted the additions."

5. By an application dated 15.05.2026, the assessee has raised the following additional ground for assessment year 2014-15. An identical ground has been raised for each of the other years with the respective amount:

"The Ld. AO and the Ld. CIT(A) have grossly erred in law as well as on the facts of the case in making and confirming the addition of Rs. 23,35,42,328/- made by the Ld. AO without invoking any provisions of the act as when they have denied the exemption u/s 11 and 12 and 10(20) and 10(46) then they have must invoked the specific provision of the act under which the income of the assessee falls and under which the addition made. Hence the additions so made by the AO and confirmed by the Ld. CIT(A) is being totally invalid, illegal, bad in law and contrary to the provisions of law and facts on the record and hence the same may kindly be deleted in full."

6. Briefly stated, the facts of the case are that the assessee was established by the Government of Rajasthan under the Rajasthan Urban Improvement Act, 1959 (hereinafter referred to as "the 1959 Act") by order dated 21.01.2013 for the improvement of the urban areas of Sikar. As described by the assessee before the AO, its activities include conversion of land, issue of pattas, sale of Government land by open auction and lottery, and allotment of houses and land to persons of the economically weaker sections. The assessee did not file any return of income for assessment years 2014-15 to 2018-19. In response to a notice under section 133(6) of the Act, it furnished on 31.07.2019 its income and expenditure accounts and balance sheets for financial years 2013-14 to 2017-18, which had been audited in 2019. On its application dated 28.03.2019, the learned Commissioner of Income Tax (Exemptions), Jaipur granted registration to the assessee under section 12AA of the Act by order dated 05.08.2019, with effect from assessment year 2019-20.

7. Notices under section 148 of the Act were issued on 24.03.2021 for assessment years 2014-15 and 2015-16 and on 26.03.2021 for assessment years 2016-17 to 2018-19, after obtaining approval under section 151 of the Act. The reasons recorded were, in substance, that the Hon'ble Supreme Court had held that Urban Improvement Trusts are not local authorities within section 10(20) of the Act and the income of the assessee was therefore taxable; that the assessee had not filed any return although its surplus exceeded the maximum amount not chargeable to tax; and that its registration under section 12AA of the Act was effective only from assessment year 2019-20. The assessee did not file any return in response to these notices.

8. In the reassessments, the AO held that, in view of the judgment of the Hon'ble Supreme Court in ***ITO v. Urban Improvement Trust [2018]***

409 ITR 1 (SC), the assessee was not a local authority within section 10(20) of the Act. He further found that the assessee had neither filed a return nor furnished the audit report in Form No. 10B, that its accounts were audited only in 2019, and that its registration under section 12AA of the Act was effective only from assessment year 2019-20. He, therefore, denied the exemption under sections 11 and 12 of the Act and assessed the surplus of income over expenditure shown in the income and expenditure account of each year. For assessment years 2014-15, 2017-18 and 2018-19 the surplus was expressly assessed as "Income from Other Sources", while for assessment years 2015-16 and 2016-17 the AO did not specify the head. The figures are as under:

A.Y.	Gross receipts (Rs)	Surplus assessed (Rs)
2014-15	23,47,05,426	23,35,42,328
2015-16	3,99,53,747	90,21,085
2016-17	6,29,48,138	2,43,88,312
2017-18	3,18,58,649	1,09,58,053
2018-19	8,80,14,671	3,17,37,590

9. For assessment year 2019-20, the assessment was reopened by following the procedure under section 148A of the Act on the information that the assessee had made time deposits of Rs 24,96,23,985 with ICICI Bank and Rs 8,00,00,000 with AU Small Finance Bank and had earned interest of Rs 1,20,37,013. Notice under section 148 of the Act was issued on 25.03.2023, and the assessee filed its return on 24.04.2023 declaring nil income after claiming application and accumulation of income under section 11(1)(a) of the Act. The AO accepted that the time deposits were made out of the proceeds of matured deposits. He, however, disallowed the claim of Rs 7,52,22,813 on the sole ground that the return had not been filed under

section 139(1) of the Act, and assessed the total income at Rs 7,52,22,810 by order dated 02.02.2024.

10. Before the learned CIT(A), the assessee claimed exemption under section 10(20) and section 10(46) of the Act and under sections 11 and 12 of the Act. As an alternative, it claimed that specified portions of its receipts, namely 40% of premium money, 60% of lease money and the BSUP fees, were collected on behalf of the State Government and were wrongly credited as income. The learned CIT(A) rejected the claim under section 10(20) of the Act following the judgment of the Hon'ble Supreme Court in ***ITO v. Urban Improvement Trust (supra)***. The claim under section 10(46) of the Act was rejected because the assessee was not notified by the Central Government, and section 10(46A) of the Act was held to be prospective. The claim under sections 11 and 12 of the Act was rejected because the registration was effective only from assessment year 2019-20. The alternative claim was also rejected on the same ground, and the appeals were dismissed.

11. For assessment year 2019-20, the learned CIT(A) rejected the claims under sections 10(20) and 10(46) of the Act, but held as under on the claim under section 11 of the Act:

> *"5.3.3 In the assessment order, the AO stated that the appellant had not furnished trust deed nor exemption certificate, however the appellant has claimed application of income and accumulation of income u/s 11(1)(a) of the Act. During the course of appellate proceedings, the appellant has furnished the 12AA registration. Therefore, I am of the opinion that without prejudice to the Ground no.3, the AO is directed to verify the claim of the appellant that it is eligible for exemption u/s 11 in view of the grant of registration u/s 12AA of the Act for the year under consideration as per law. Thus, the ground no.2 is partly allowed.*
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> ....

5.4.2 In view of the above, the Ground No 3 raised by the appellant is allowed in view of the grant of Registration u/s 12AA of the Act vide CIT(Exemptions), Jaipur vide order dt 05.08.2019 for AY 2019-20 and the AO is directed to re-compute the income accordingly after affording an opportunity of hearing to the appellant. Needless to mention here that the appellant would comply with the directions and produce all necessary documentary evidences as sought by the AO."

12. Before us, the learned Authorised Representative (hereinafter referred to as "the learned AR") made detailed oral arguments and also relied on the written submissions and the paper books. The main submissions were as under:

(a) The issue is directly covered by the order of the coordinate Bench of the Tribunal in the case of Urban Improvement Trust, Kota (ITA Nos. 717, 794 to 797, 731, 773, 774, 803, 811 and 813/JPR/2024, order dated 11.08.2025), where an Urban Improvement Trust constituted under the same 1959 Act was held to be "State" within Article 289(1) of the Constitution of India and its income was held to be not chargeable to tax at all.

(b) The assessee is "State" under Article 12 of the Constitution, being created by a State law and under deep and pervasive State control. Its income is the income of the State and is immune from Union taxation under Articles 285 and 289. Its functions are governmental and not trade or business, and in any case Article 289(3) protects them. The judgment in ***ITO v. Urban Improvement Trust (supra)*** decided only the question of section 10(20) of the Act and not the constitutional immunity. The judgment in ***Adityapur Industrial Area Development Authority v. Union of India [2006] 283 ITR 97 (SC)*** is distinguishable because that authority was engaged in

industrial promotion, while the funds of the assessee revert to the State and remain under its control.

(c) The insertion of sections 10(46) and 10(46A) of the Act shows that the Legislature recognises the nature of such bodies, and these beneficial provisions should be applied retrospectively. The non-notification under section 10(46) of the Act is only a procedural lapse.

(d) Having been registered under section 12AA of the Act, the assessee is entitled to the benefit of sections 11 and 12 of the Act for the earlier years under the proviso to section 12A(2) of the Act. Reliance was placed on ***CIT (Exemptions) v. Hyderabad Metropolitan Development Authority [2026] 184 taxmann.com 162 (Telangana)*** and ***Shri 1008 Digambar Jain Atishay Kshetra Papoura Ji v. ITO (Exemption) [2026] 187 taxmann.com 832 (Agra-Trib.)***. The assessee had not applied for registration earlier because it believed itself to be a local authority, a belief that was upheld by the Hon'ble Rajasthan High Court before the Hon'ble Supreme Court decided the issue in 2018.

(e) The receipts are statutory receipts held in a fiduciary capacity, and only real income can be taxed. Advances received from the public, which were later refunded, and the shares of the State Government and local funds were wrongly credited as income. If the assessee does not succeed on the other grounds, the AO may be directed to compute the real income on the basis of recast accounts.

(f) On the additional ground, the AO did not state under which provision or head the income was taxed, and an addition made without invoking any provision cannot be sustained. Reliance was placed on the orders

of the Tribunal in Arvind Kumar Nehra v. ITO (ITA No. 32/JP/2024) and other cases.

(g) As the income is constitutionally immune, there can be no reason to believe that income has escaped assessment, and the reopening is void. The accounts of the assessee are also examined by the Accountant General, and copies of the inspection reports have been filed.

13. The learned Departmental Representative (hereinafter referred to as "the learned DR") relied on the orders of the lower authorities and on the written submissions. The main submissions were as under:

(a) The assessee filed no return although its income exceeded the maximum amount not chargeable to tax. Under Explanation 2(a) to section 147 of the Act this is a deemed case of escapement. The notices were issued within the time permitted by section 149 of the Act as it then stood, with the approval of the appropriate authority under section 151 of the Act, and the reasons were based on the assessee's own accounts.

(b) Under ***Andhra Pradesh State Road Transport Corporation v. ITO [1964] 52 ITR 524 (SC)*** and ***Adityapur Industrial Area Development Authority (supra)***, the income of a statutory body having a separate legal personality is its own income and not the income of the State. The Hon'ble Uttarakhand High Court applied ***Adityapur*** to a development authority in ***Mussoorie Dehradun Development Authority v. Addl. CIT [2022] 140 taxmann.com 192 (Uttarakhand)***. Under section 105 of the 1959 Act, the funds of the Trust vest in the Municipal Board, and not in the State, only on dissolution.

(c) The order in the case of Urban Improvement Trust, Kota should not be followed in view of the judgments of the Hon'ble Supreme Court in ***Andhra Pradesh State Road Transport Corporation (supra)*** and ***Adityapur Industrial Area Development Authority (supra)***. The Department has filed appeals against it before the Hon'ble Rajasthan High Court, which are pending. If the Bench is inclined to follow that order, the question may be referred to a Special Bench under section 255(3) of the Act.

(d) The assessee itself applied in May 2025 for a notification under section 10(46A) of the Act, and the Central Government by Notification No. 25/2026 dated 24.03.2026 notified it as "a trust" with effect from assessment year 2026-27, subject to conditions. A body which seeks a conditional statutory exemption cannot claim that its income is the income of the State.

(e) The first proviso to section 12A(2) of the Act applies only to assessment proceedings pending before the AO on the date of registration. On 05.08.2019, no proceeding was pending for any of these years. Moreover, the assessee never filed a return or an audit report in Form No. 10B and never furnished any computation of application of income.

(f) The receipts were credited by the assessee itself as income. An amount can be excluded only if it is diverted at source by an overriding title, which must be proved with the statutory instrument and evidence of remittance. The inspection reports of the Accountant General are fresh evidence filed without any application under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963, and, read as a whole, they show that the State's share of lease money had not been remitted. Without

prejudice, if the claim regarding the State's share is to be examined, only that quantum issue may be restored to the AO for verification.

(g) The additional ground has no merit. Once every exemption fails, the income is chargeable under section 4 of the Act, and the non-mention of a section or head does not vitiate the assessment. Reliance was placed on ***National Thermal Power Co. Ltd. v. CIT [1998] 229 ITR 383 (SC)*** on admission and on ***CIT v. Chugandas & Co. [1965] 55 ITR 17 (SC)*** on the heads of income.

14. We have heard the rival submissions and perused the material on record. The following questions arise for our decision:

i) the validity of the reassessments;
ii) whether the income of the assessee is exempt under section 10(20), section 10(46) or section 10(46A) of the Act, or is immune from tax under Article 289 of the Constitution;
iii) whether the assessee is entitled to exemption under sections 11 and 12 of the Act;
iv) the additional ground regarding head of income for taxation; and
v) the computation of the income.

Validity of the reassessments (Ground No. 1)

15. For assessment years 2014-15 to 2018-19, the notices under section 148 of the Act were issued in March 2021, under the law as it stood before 01.04.2021. The assessee had filed no return for any of these years, although the surplus shown in its own accounts far exceeded the maximum amount not chargeable to tax. Under Explanation 2(a) to section 147 of the Act, such a case is deemed to be one where income has escaped assessment. The notices were issued within the period allowed by section

149 of the Act and after the approval under section 151 of the Act. The certified copies of the reasons and approvals have been placed by the assessee itself in its paper book, and no specific defect in them has been pointed out.

16. We have also considered whether the second proviso to section 12A(2) of the Act bars the reopening. That proviso prohibits action under section 147 of the Act for an earlier year "only for non-registration" of the trust. The reasons recorded in the present case rest on the failure of the assessee to file any return despite having a surplus far above the taxable limit, and on the taxability of its income after the judgment of the Hon'ble Supreme Court on section 10(20) of the Act. The reference to the date of registration is only one of the facts narrated. The reopening was, therefore, not "only for non-registration". The plea that there could be no reason to believe because the income is constitutionally immune depends on the constitutional plea, which we discuss below.

17. For assessment year 2019-20, the notice under section 148 of the Act was issued on 25.03.2023 after following the procedure under section 148A of the Act. The assessee did not object to the reopening and filed its return in response to the notice. No specific infirmity in the procedure has been pointed out before us. **Ground No. 1 is, therefore, dismissed for all the years.**

Sections 10(20), 10(46) and 10(46A) of the Act and Article 289 of the Constitution (Ground No. 3)

18. The claim under section 10(20) of the Act is no longer open. In ***ITO v. Urban Improvement Trust (supra)***, the Hon'ble Supreme Court examined the scheme of the 1959 Act, under which the assessee is constituted, and held in paragraph 33 as under:

"33. In above case, this Court, thus, has held that the expression "Municipal Committee and District Board" occurring in Clause (iii) of Explanation referred to those bodies, which are discharging municipal functions and power in any part of country and so far has not been substituted by any other Body by any Act of Legislature. The word "Municipal Committee" occurring in Clause (iii) Explanation, thus, has a definite purpose and object. Purpose and object was to cover those bodies, which are discharging municipal functions but are not covered by the definition of municipalities as was required to be constituted by Article 243Q of the Constitution of India. Urban Improvement Trust constituted under the Rajasthan Urban Improvement Act, 1959, thus, cannot be held to be covered by the definition of Municipal Committee as contained in Clause (iii) of Explanation to Section 10(20) of the I.T. Act. Further, as noticed above, prior to deletion of Section 10(20A), Section 10(20A) was a provision which exempted the income of authority constituted in India by or under any law enacted for the purpose of planning, development or improvement of cities, towns and villages or for both. There cannot be any dispute that Urban Improvement Trust, i.e. the assessee was fully covered by the definition of authorities as contained in Section 10(20A) prior to its deletion. When there is a specific deletion of Section 10(20A), the said deletion was for an object and purpose. The Explanatory Notes in Paragraph Nos. 13.1 to 13.4 as noticed above clearly mentioned that "income of certain Housing Boards etc. to become taxable". The deletion of authorities, which were enumerated in Section 10(20A) was a clear indicator that such authorities, which were enjoying exemption under Section 10(20A) shall no longer be entitled to enjoy the exemption henceforth. The deletion of Section 10(20A) thus has to be given a purpose and meaning."

19. The plea that this judgment should operate only prospectively cannot be accepted. A judgment of the Hon'ble Supreme Court declares the law as it always stood, unless the Court itself limits its operation, and the Hon'ble Supreme Court applied its view to the very assessment years that were before it. The claims under sections 10(46) and 10(46A) of the Act also fail.

Both clauses require the body to be notified by the Central Government. The assessee was not notified under section 10(46) of the Act for any of these years. On its own application, it has been notified under section 10(46A) of the Act by Notification No. 25/2026 dated 24.03.2026, which states that it "shall be effective from the assessment year 2026-27". Neither the Tribunal nor the AO can advance the date fixed by the Central Government in exercise of its statutory power.

20. We now come to the main plea of the assessee, which is based on Article 289 of the Constitution. Article 289 reads as under:

> *"289. Exemption of property and income of a State from Union taxation.— (1) The property and income of a State shall be exempt from Union taxation.*
>
> *(2) Nothing in clause (1) shall prevent the Union from imposing, or authorising the imposition of, any tax to such extent, if any, as Parliament may by law provide in respect of a trade or business of any kind carried on by, or on behalf of, the Government of a State, or any operations connected therewith, or any property used or occupied for the purposes of such trade or business, or any income accruing or arising in connection therewith.*
>
> *(3) Nothing in clause (2) shall apply to any trade or business, or to any class of trade or business, which Parliament may by law declare to be incidental to the ordinary functions of Government."*

21. The immunity under clause (1) is for the "income of a State". Clauses (2) and (3) come into play only after it is found that the income in question is the income of the State. The question, therefore, is not whether the assessee performs public functions or is under the control of the State Government, but whether its income is the income of the State. This very question, in relation to a development authority constituted under a State enactment, was answered by the Hon'ble Supreme Court in ***Adityapur***

Industrial Area Development Authority (supra), where it was held in paragraph 9 as under:

> *"9. It is true, as submitted by Sri Venugopal, that Clause (2) of Article 289 empowers the Parliament to make a law, imposing a tax on income earned only from trade or business of any kind carried by or on behalf of the State. It does not authorize the Parliament to impose a tax on the income of a State if such income is not earned in the manner contemplated by Clause (2) of Article 289. This, to our mind, does not answer the question which arises for our consideration in this appeal. Clause (2) of Article 289 presupposes that the income sought to be taxed by the Union is the income of the State, but the question to be answered at the threshold is whether in terms of Clause (1) of Article 289, the income of the appellant/Authority is the income of the State. Having regard to the provisions of the Bihar Industrial Areas Development Authority Act, 1974, particularly section 17 thereof, we have no manner of doubt that the income of the appellant/Authority constituted under the said Act is its own income and that the appellant/Authority manages its own funds. It has its own assets and liabilities. It can sue or be sued in its own name. Even though, it does not carry on any trade or business within the contemplation of Clause (2) of Article 289, it still is an Authority constituted under an Act of the Legislature of the State having a distinct legal personality, being a body corporate, as distinct from the State. Section 17 of the Act further clarifies that only upon its dissolution its assets, funds and liabilities devolve upon the State Government. Necessarily therefore, before its dissolution, its assets, funds and liabilities are its own. It is, therefore, futile to contend that the income of the appellant/Authority is the income of State Government, even though the Authority is constituted under an Act enacted by the State Legislature by issuance of a Notification by the Government thereunder."*

22. The Hon'ble Supreme Court in that judgment followed the Constitution Bench in ***Andhra Pradesh State Road Transport Corporation (supra)*** and concluded in paragraph 20 that the authority "*could not*

claim exemption from Union taxation under Article 289(1) of the Constitution of India".

The position of the assessee is no different. Section 8(2) of the 1959 Act provides that every Trust *"shall be a body corporate by the aforesaid name having perpetual succession and a common seal with power to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue and be sued"*.

Under section 105(2)(a) of the 1959 Act, its properties, funds and dues vest in the Municipal Board only on its dissolution.

If anything, the case of the assessee is weaker than that of the authority in ***Adityapur***, whose assets were to devolve on the State Government on dissolution.

The distinction sought to be drawn by the learned AR, that the authority in ***Adityapur*** promoted industries while the assessee develops urban areas, does not touch the ratio of that judgment. The Hon'ble Supreme Court decided the case on the separate legal personality of the authority, and expressly proceeded on the footing that it did not carry on any trade or business.

Similarly, the State Government's order that certain shares of specified receipts are to be remitted to the State may, at best, bear on the quantum of income. It cannot convert the entire income of the assessee into the income of the State.

23. The tests under Article 12 of the Constitution, relied upon by the learned AR, are of no assistance. Article 12 defines "the State" for the purposes of Part III of the Constitution, so that fundamental rights can be enforced against bodies that are instrumentalities of the State. An instrumentality of

the State is not, for that reason, the State itself whose income is protected by Article 289.

Article 285, which exempts the property of the Union from taxes imposed by a State, has no application to Union income tax on a body constituted by a State.

We may also note that when the Hon'ble Rajasthan High Court held Urban Improvement Trusts to be local authorities on the reasoning that their functions are statutory and are carried on for the benefit of the State Government, the Hon'ble Supreme Court in ***ITO v. Urban Improvement Trust (supra)*** observed in paragraph 39 that the said reasoning "cannot lead to the conclusion" drawn and set aside the judgments.

Statutory or public functions do not, by themselves, take the income of a separate legal entity outside the charge of tax. The conduct of the assessee is also consistent with this position. It sought registration as a charitable institution in 2019 and applied for a conditional notification under section 10(46A) of the Act in 2025.

24. This brings us to the order of the coordinate Bench in the case of Urban Improvement Trust, Kota, on which the assessee has founded its case.

The question before us, namely whether the income of a body constituted under a State enactment is the income of the State within Article 289(1) of the Constitution, is directly answered by the Hon'ble Supreme Court in ***Adityapur Industrial Area Development Authority (supra)***.

We also note the submission of the learned DR that the Department has filed appeals against that order before the Hon'ble Rajasthan High Court.

Respectfully, we follow the ratio of ***Adityapur Industrial Area Development Authority (supra)*** and ***Andhra Pradesh State Road Transport Corporation (supra)***. **Ground No. 3 is dismissed for all the years.**

Exemption under sections 11 and 12 of the Act (Ground No. 2)

25. For assessment years 2014-15 to 2018-19, the assessee had no registration. Its registration under section 12AA of the Act was granted on 05.08.2019 with effect from assessment year 2019-20, and that order was not challenged. The claim is, therefore, based only on the first proviso to section 12A(2) of the Act, which, as it stood when the registration was granted, read as under:

> *"Provided that where registration has been granted to the trust or institution under section 12AA, then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year:*
>
> *Provided further that no action under section 147 shall be taken by the Assessing Officer in case of such trust or institution for any assessment year preceding the aforesaid assessment year only for non-registration of such trust or institution for the said assessment year:"*

26. The benefit of the first proviso is available for an earlier year only if assessment proceedings for that year are pending before the AO "as on the date of such registration". The CBDT Circular No. 1/2015 dated 21.01.2015, which explains the amendment, says the same thing in paragraph 8.3:

> *"8.3. In order to provide relief to such trusts and remove hardship in genuine cases, section 12A of the Income-tax Act has been amended to provide that in a case where a trust or institution has been granted registration under section 12AA of the Income-tax Act, the benefit of sections 11 and 12 of the said Act shall be available in respect of any income derived from property held under trust in any assessment proceeding for an earlier assessment year which is pending before the Assessing Officer as on the date of such registration, if the objects and activities of such trust or institution in the relevant earlier assessment year are the same as those on the basis of which such registration has been granted."*

27. The Hon'ble Rajasthan High Court in ***CIT (Exemptions) v. Shree Shyam Mandir Committee (D.B. Income Tax Appeal No. 234/2016, judgment dated 23.10.2017)*** held that the proviso operates retrospectively and that proceedings pending in appeal are to be treated as pending before the AO. In that case, as in the decisions of the Telangana High Court and the Agra Bench relied upon by the learned AR, the proceedings were already pending when the registration was granted. In the present case, on 05.08.2019 no return had been filed and no assessment proceeding was pending for any of the years from 2014-15 to 2018-19. The only step taken before that date was a call for information under section 133(6) of the Act, which is an enquiry and not an assessment proceeding. The reassessment proceedings began only with the notices issued in March 2021, about nineteen months after the registration. The condition of pendency on the date of registration is, therefore, not satisfied. In ***Hyderabad Metropolitan Development Authority (supra)***, registration itself was granted from an earlier year in the registration proceedings, which is not the position here. The plea that the assessee did not apply for registration earlier because it believed itself to be a local authority is a plea of hardship, and it cannot override the plain words of the proviso.

28. There is a further difficulty for the assessee. Exemption under section 11 of the Act depends on the application of income to charitable purposes, which has to be computed and verified. The assessee filed no return, furnished no audit report in Form No. 10B and placed no computation of application or accumulation of income for these years before any authority. Ground No. 2 for assessment years 2014-15 to 2018-19 is, therefore, dismissed.

29. For assessment year 2019-20, the registration under section 12AA of the Act was in force. The AO denied the claim only because the return was not filed under section 139(1) of the Act. The learned CIT(A) has allowed the ground of the assessee in principle in view of the registration and has directed the AO to verify the claim for exemption under section 11 of the Act as per law and to recompute the income. The Revenue is not in appeal against that direction. The application and accumulation of income of Rs 7,52,22,813 claimed in the return have not so far been verified by any authority. We see no reason to direct the AO to allow the claim without such verification. **Grounds No. 2 and 4 for assessment year 2019-20 are, therefore, dismissed, and the direction of the learned CIT(A) is upheld.**

Additional ground

30. The additional ground raises a legal question on facts already on record, and we admit it in the light of ***National Thermal Power Co. Ltd. (supra)***. On merits, however, the ground has no force. Income is charged under section 4 of the Act on the total income, and the heads of income in section 14 of the Act are only for the purpose of computation. The assessee knew throughout what was being taxed, namely the surplus of its own income and expenditure account, and it has contested only whether that surplus is exempt. For assessment years 2014-15, 2017-18 and 2018-19, the

AO expressly assessed the surplus as "Income from Other Sources". For assessment year 2019-20, the provision invoked is section 11 of the Act, under which the claim was disallowed. The decisions relied upon by the learned AR concern additions of unexplained credits or deposits where the AO did not identify which of the deeming provisions applied, and they are distinguishable. The failure to state the head of income for assessment years 2015-16 and 2016-17 does not invalidate the assessments, and the head will be determined by the AO in the fresh computation directed below. **The additional ground is dismissed.**

Computation of income (Ground No. 4)

31. The AO assessed the entire surplus of each year as income. Before the learned CIT(A), the assessee claimed that specified portions of the premium money, lease money and BSUP fees were collected on behalf of the State Government and were not its income, and before us it has also claimed that advances received from the public under a scheme, which were later refunded, were credited as income. The learned CIT(A) did not examine these claims on merits and rejected them only because the registration was effective from assessment year 2019-20. That reason has no bearing on whether a particular receipt is the income of the assessee. Whether any part of the receipts was diverted at source by an overriding title, or was a liability rather than income, is a question of fact which has to be decided on the statutory instruments, the accounting treatment and the evidence of remittance or refund. The learned DR has also pointed out discrepancies in the figures claimed. None of these aspects has been examined by the AO.

32. In these circumstances, we set aside the orders of the learned CIT(A) on Ground No. 4 for assessment years 2014-15 to 2018-19 and restore the

computation of the income of the assessee for these years to the file of the AO for a fresh determination in accordance with law, after giving the assessee reasonable opportunity of being heard. The issues of chargeability decided above, namely the claims under sections 10(20), 10(46) and 10(46A) of the Act, under Article 289 of the Constitution and under sections 11 and 12 of the Act, shall not be reopened. Subject to this, the AO shall be free to examine all aspects of the computation, including the head of income, on the material that the assessee may produce and the material on record, including the inspection reports of the Accountant General filed before us, which we have not examined on merits. The assessee shall cooperate and furnish the necessary evidence. **Ground No. 4 for these years is allowed for statistical purposes.**

33. Ground No. 5 relating to interest under sections 234A, 234B and 234C of the Act is consequential and does not require separate adjudication. Ground No. 6 for all the years is general in nature and needs no adjudication.

34. In the result, **the appeals filed by the Assessee in ITA Nos. 649, 651, 652, 654 and 657/JPR/2025 are partly allowed for statistical purposes, and the appeal in ITA No. 658/JPR/2025 is dismissed.**

Order pronounced in the open court on 22.10.2026

Sd/-	**Sd/-**
(KULDIP SINGH)	**(PRAKASH)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated 22/10/2026

**Ganesh Kr., Sr. PS*

आदेशकीप्रतिलिपिअग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue

3. Concerned CIT
4. CIT (A)
5. DR, ITAT
6. Guard file.

By order/**आदेश से**,
सहायक पंजीकार
आयकर अपीलीय अधिकरण, जयपुर