आयकर अपीलीय अधिकरण
पटना 'डीबी' बेंच कोलकाता मे

IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA 'DB' BENCH AT KOLKATA

[Virtual Court]

Before

SHRI YOGESH KUMAR US, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER

ITA No(s). 550/PAT/2025 & 298/PAT/2026
Assessment Year(s) 2011-12 & 2012-13

International School of Human Resource and Social Welfare Society 61, South New Patliputra Colony, Patna, Bihar, 800013	Vs.	**ACIT, Circle-1, Patna** Assistant Commissioner of Income Tax, Circle 1, Patna, Bihar, 800001
(अपीलार्थी/Appellant)		***(प्रत्यर्थी/Respondent)***
***स्थायी खाता संख्या*/PAN: AAAAI2856B**		

उपस्थिति/Appearance:
अपीलार्थी के ओर से/
Assessee represented by (AR) : Abhi Sarkar, Adv.
प्रत्यर्थी के ओर से/
Department represented by (DR) : Ravi Kant Chowdhary, Sr. DR.

सुनवाई की तिथि/
Date of concluding the hearing : 05.10.2026
आदेश उद्घोषणा की तिथि/
Date of pronouncing the order : 16.10.2026

आदेश/ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

These two appeals filed by the assessee are against the separate orders of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 [the 'Act'] for AY 2011-12 dated 26.09.2025 and for AY 2012-13 dated 24.03.2026. Since

the issues in both the appeals are related, they were heard together and are being decided vide this common order for the sake of convenience and brevity.

1.1 The Registry has informed that the appeal in **ITA No. 550/PAT/2025** for **AY 2011-12** is barred by limitation by 8 days. The assessee has filed a petition for condonation of delay explaining the reasons that the appellant Society is engaged in educational activities, and the preparation of necessary documents, collation of papers, internal approvals, and finalisation of grounds of appeal required additional time. After perusing the same, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeal within the statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

> ***I. ITA No(s). 550/PAT/2025; AY(s) 2011-12****:*
>
> *"1. That the impugned appellate order dated 26.09.2025 passed u/s 250 of the Income Tax Act, 1961 is bad in law, bad in facts, contrary to the material on record, and liable to be quashed.*
>
> *2. That the Ld. CIT(A) has erred in law in upholding the validity of the assessment despite the admitted fact that the mandatory notice u/s 143(2) was not served upon the assessee within the statutorily prescribed time and was instead served on an unauthorized person, rendering the assessment void ab initio.*
>
> *3. That the Ld. CIT(A) has failed to appreciate that the notice sent through speed post was admittedly received by the assessee only on 03.12.2012, i.e., beyond the statutory time limit, thereby vitiating the jurisdiction to frame assessment u/s 143(3).*
>
> *4. That the Ld. CIT(A) has erred in not adjudicating the assessee's objection that the remand proceedings u/s 250(4) were defective and non est, as the AO failed to conduct any further enquiry and merely reiterated the earlier findings.*

5. That the Ld. CIT(A) has erred in restoring the issues back to the Assessing Officer despite the assessee having furnished complete evidence during appellate proceedings.

6. That the Ld. CIT(A) has erred in not granting full relief despite acknowledging that registration u/s 12AA was granted w.e.f. A.Y. 2011-12, thus invalidating the addition of surplus income.

7. That the Ld. CIT(A) has erred in not deleting additions relating to depreciation, rent, advertisement, liabilities, earmarked funds, and other disallowances, all of which were based on an ex parte assessment.

8. That the finding that the assessee did not furnish evidence is factually incorrect and contrary to the record, particularly when the AO failed to consider the evidence during remand proceedings.

9. That the Ld. CIT(A) has erred in not adjudicating upon the addition of opening balances of Caution Money and Building Fund, which cannot be taxed in the year under appeal.

10. That the Ld. CIT(A) has erred in not deciding the ground concerning alleged benefit under section 13(1)(c), despite the ITAT having already rejected such allegation in assessee's own case.

11. That the Ld. CIT(A) has erred in partly allowing the appeal 'for statistical purposes', resulting in multiplicity of proceedings and denial of complete relief.

12. That the assessee craves leave to add, alter, amend or withdraw any ground at the time of hearing."

***II. ITA No(s). 298/PAT/2026; AY(s) 2012-13**:*

"1. That the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi u/s 250 dated 24.03.2026 is bad in law and on facts and is liable to be quashed.

2. That the learned CIT(A) has grossly erred in upholding the assessment without adjudicating the jurisdictional ground relating to non-service of mandatory notice u/s 143(2), thereby rendering the assessment void ab initio.

3. That the learned CIT(A) has failed to appreciate that valid service of notice u/s 143(2) within the prescribed time is a condition precedent for assumption of jurisdiction and in absence thereof, the assessment framed is liable to be annulled.

4. That the learned CIT(A) has erred in mechanically relying upon the remand report of the Assessing Officer without independently examining the legality

and validity of alleged service of notice through affixture and without recording any finding in accordance with law.

5. That the learned CIT(A) has violated the provisions of section 250(6) of the Act by not passing a speaking order, as no issue-wise findings or reasons have been recorded on the grounds raised by the appellant.

6. That the learned CIT(A) has failed to properly consider and adjudicate the additional evidences and documents filed by the appellant in the Paper Book, thereby vitiating the appellate order.

7. That the learned CIT(A) has erred in law in relying upon a remand report which is merely a reproduction of the assessment order and does not constitute a valid report in terms of section 250(4) of the Act.

8. That the learned CIT(A) has erred in upholding additions made by the Assessing Officer on purely ex-parte basis without any independent verification or examination of facts and evidences.

9. That the learned CIT(A) has failed to adjudicate the specific ground relating to double addition of the same amount under different heads, rendering the order perverse.

10. That the learned CIT(A) has erred in confirming addition of opening balances appearing in the books of account without appreciating that the same do not constitute income of the year under consideration.

11. That the learned CIT(A) has erred in upholding ad-hoc disallowance of expenses on percentage basis without any finding of defects in books of account or justification for such estimation.

12. That the learned CIT(A) has failed to consider that the appellant was granted registration u/s 12A with retrospective effect and has not examined the applicability of sections 11 and 12 while sustaining the additions.

13. That the learned CIT(A) has passed the order in violation of principles of natural justice by not properly considering the submissions filed by the appellant during appellate proceedings.

14. That the appellant craves leave to add, alter, amend or withdraw any of the above grounds of appeal at or before the time of hearing."

3. We shall first take up **ITA No. 550/PAT/2025** for AY 2011-12 for adjudication. Brief facts of the case are that the assessee is a Society registered under the Societies Registration Act, 1860 with the avowed objects to promote education and to remove poverty etc. and is running a

school in the name of "International School". For the impugned assessment year, it was neither registered u/s 12A of the Act nor was it approved u/s 10(23C)(vi) of the Act by the prescribed authority. The assessee filed the return of income on 30.09.2011 at the total income of ₹ NIL which was picked up for scrutiny and accordingly notice u/s 143(2) of the Act was sent by speed post on 25.09.2012 for compliance on 03.10.2012. A copy of the same notice was also served in person at the address of the assessee Society. However, no compliance was made by the assessee. Further, on change of incumbent, a notice u/s 142(1) of the Act was also sent on 18.09.2013 vide Letter no. 774 for compliance on 27.09.2013 but no compliance was made. Subsequently, the assessee filed a written submission in response to the show cause notice for penalty u/s 271(1)(b) of the Act. The assessee challenged the service of the notice u/s 143(2) of the Act vide written submission dated 05.10.2013. The Assessing Officer [Ld. 'AO'] vide office Letter no. 1199 dated 18.12.2013 provided a xerox copy of the office copy of the notice u/s 143(2) of the Act wherein receipt of notice u/s 143(2) of the Act vide Memo no. 893 dated 25.09.2012 was acknowledged. Thus, due response was made to the allegation of non-service of the notice u/s 143(2) of the Act and the assessee was requested to ensure compliance to the notice issued u/s 143(2) of the Act. No compliance was made on or before 27.12.2013 and a final show cause notice was issued to the assessee vide office Letter no. 1343 dated 30.01.2014. The assessee submitted written reply on 14.12.2010 and though the Letter no. 1343 dated 30.01.2014 was acknowledged but the receipt of the notice u/s 143(2) of the Act, a copy of which was issued office Letter no. 1199 dated 18.12.2013, was denied. In para 3 of the reply, it was submitted that the assessee had all along maintained the mandatory notice u/s 143(2) of the Act had not been

served on the assessee within the statutorily stipulated period and from the copy of the service report of the notice as granted to the assessee by the office of the Ld. AO, it was evident that the notice was served upon Urdu teacher and not on the assessee. It was submitted that the said teacher was neither authorized to receive such notice nor by any stretch of imagination can she be considered to be assessee and the evidence so given also confirms the contention of the assessee made in respect of the service of the notice. The assessee further submitted that this was established by evidence adduced by the office of the Ld. AO that the mandatory notice u/s 143(2) of the Act was not served upon the assessee within the statutorily stipulated time, which expired on 30.09.2012 and the assessment proceeding could not be validly proceeded with and hence were requested to be dropped. The Ld. AO inferred that the assessee did not intend to comply with the notice issued u/s 143(2) of the Act and had also failed to comply with the notice issued u/s 142(1) of the Act dated 18.09.2013 vide Letter no. 774 for compliance on 27.09.2013. As regards the service of the notice, the Ld. AO has mentioned in the assessment order para 5, which is reproduced as under:

> *"5. It is clear from above submissions of the assessee that it doesn't intend to comply with notice u/s 143(2). It is worth mentioning here that the assessee also failed to comply with notice u/s. 142(1) dated 18.09.2013 issued vide letter no. 774 for compliance on 27.09.2013. The assessee runs a well known school and therefore it is not understood as to why notice u/s 143(2) issued vide Memo no. 893 dated 25.09.2012 cannot have been served. It is also remarkable that some notice / letters sent by the department have been served to the assessee on same address. Further, A.O took extra precaution and sent ITI of this circle to serve the aforesaid notice in person. The same was stands served upon 'a Urdu Teacher' of International school. It is also to point out that the society runs the above school from the same premises i.e. 61, South New Patliputra Colony, Near Alpana Market, Patna-13. While acknowledging the above notice, the Urdu teacher has categorically mentioned that Received one*

copy for international School of Human Resource and Social Welfare Society". Reference is also drawn to following decisions:-

1. Notice send by speed post - Quite reasonable to infer that it was served within 3-4 days Capital Gem Overseas (P) Ltd. Vs ITO (ITAT, Del) 101 ITD 117

2. Notices dispatched by Registered Post Either not received back or received back with endorsement "refused" - Deemed service Ramesh Khosla Vs ITO & Anr. (P&H) 155 ITR 556

3. It is also worthwhile to mention that the assessee society is habituated in claiming non-service of this office notices. In earlier assessment year also it has filed objections regarding non-service of the notices. From the reply filed it is evident that assessee according to it will response to this office notices/letters as it claimed that some notices/ letter have been received and some not. Further, the notice u/s 143 (2) for assessment year 2011-12 also stands served in person as enumerated above. Therefore, there is no force is the submission of the assessee that the notice u/s 143(2) was not served upon it. Subsequently a penalty order under section 271(1)(b) of the Income-tax Act 1961 was passed on 26.02.2014 and penalty of Rs. 10,000/- was levied on the assessee for non-compliance of notice u/s 142 (1) of the IT Act dated 18.09.2013. It is also evident that the assessee was reminded time and again that that non-compliance will entail ex-parte assessment order on the basis of materials available on record. In this circumstances, the undersigned is bound to complete the time barring assessment proceeding ex-parte on the basis of material available on record in the manner specified below :-"

4. As regards the merits of the case, since the gross receipts exceeded ₹1 Crore during the FY 2010-11 relevant to AY 2011-12 and the assessee had not been granted approval u/s 10(23C)(vi) of the Act by the prescribed authority, therefore, the Ld. AO held that it was not entitled for the claim of exemption u/s 10(23C)(vi) of the Act even though it had claimed benefit of exemption u/s 10(23C)(vi) of the Act as evident from the audit report and the return of income filed. He further noted that the application of the assessee for grant of exemption u/s 10(23C)(vi) of the Act had also been rejected by the Ld. Chief Commissioner of Income Tax which was communicated by order vide F.No. CCIT/Pat/Tech-II/10(23C)(vi)/13-14/8431-37 dated 20.09.2013, the extract from which is given at pages 7,

8 & 9 of the assessment order. The assessee had shown profit of ₹5,60,108/- in the income and expenditure account, which in the absence of approval u/s 10(23C)(vi) of the Act by the prescribed authority, was assessed at maximum marginal rate of taxation. The claim of depreciation was disallowed and other disallowances on TDS related issues, additions on account of current liabilities and provisions, earmarked fund, interest on car loan and disallowance of ₹41,66,111/- out of the expenses claimed on account of salary, repair and maintenance and others totalling to ₹2,08,30,559/- for failure to produce books of account and bills and the vouchers related to the expenses even after several opportunities were the other additions made and the total income was thus assessed at ₹95,35,032/- u/s 144 of the Act. Aggrieved by the assessment order, the assessee filed an appeal before the Ld. CIT(A) before whom also the service of the notice was challenged. The Ld. CIT(A) considered the contention of the assessee and the submission made by the assessee during the course of the appellate proceeding was forwarded to the Ld. AO for the remand report, who submitted the remand report dated 31.01.2018 which has been reproduced in the order of the Ld. CIT(A). The Ld. AO mentioned that the notice u/s 143(2) of the Act dated 25.09.2012 was sent to the assessee on 27.09.2012 through speed post number EF182925175IN and another notice u/s 143(2) of the Act dated 25.09.2012 was served upon the Urdu teacher of the school run by the assessee Trust on 29.09.2012 and he stated that, therefore, the assessee Trust's objection that the notice u/s 143(2) of the Act that was not served within the time period provided for service of notice was not found to be true. The Urdu teacher receiving the notice was a responsible person engaged in teaching, which is one of the objectives of the assessee Trust and the proof regarding service of the notice u/s 143(2) of the Act dated 25.09.2012 was provided to the

assessee by the Ld. AO during the course of the assessment proceedings. As regards the merits of the case, the Ld. AO made his comments in the remand report which were considered by the Ld. CIT(A). The assessee submitted a rejoinder to the remand report. It was submitted that in the interregnum, upon the assessee's application for grant of registration, the registration u/s 12A of the Act had been granted by the ITAT Patna Bench with effect from AY 2011-12 vide order in ITA No. 72/PAT/2011-12, which was not mentioned in the remand report. It was further submitted that in view of the certificate issued by the Ld. CIT(E) effective from the captioned assessment year which is part of the record, the surplus in the hands of the assessee society cannot be treated as income. It was also submitted that the Ld. AO never asked the assessee to furnish evidence in the course of assessment proceedings in support of claim for expenses and other claims. The Ld. CIT(A) gave his findings and directed the assessee to furnish evidence in support of the expenses before the Ld. AO and also directed the Ld. AO to go through the same and delete the addition if the same are found to be in order. Therefore, the grounds of appeal nos. 3 to 6 were allowed for statistical purposes and the appeal was partly allowed. The relevant extract from the appeal order is as under:

> *"5. Decision:*
>
> *5.1 The grounds of appeal, statement of facts, order of the AO, the submissions of the appellant, remand report and the rejoinder submitted by the appellant have been perused. It is seen that the appellant is a society registered under the Societies Registration Act, 1860. Its objects are to promote education and to remove poverty etc. The Society is running school in the name of "International School". The AO found that appellant Society was neither registered u/s. 12A of the Act, nor it was approved u/s.10(23C) (vi) of the Act by 'Prescribed Authority'. The appellant filed its Return of Income on 30.09.2011 declaring total income at Rs.Nil. Thereafter, the case of the appellant was picked up for compulsory scrutiny and accordingly notices u/s. 143(2) and 142(1) of the Act was issued and served on the appellant by the*

AO. Thereafter, the AO issued various notices u/s.142(1) of the Act and also show cause notices to the appellant. In response, the appellant submitted before the AO as under:

"1. That the assessee acknowledges receipt of your office letter no. 1343 dated 30.01.2014

2. That the assessee takes this opportunity to submit that the reply to your office letter no. 1199 dated 18.12.2013 could not be submitted as the said letter never reached the assessee.

3. That the assessee has all along been maintained that mandatory notice under sub-section (2) of section 143 has not been served on the assessee within the statutorily stipulated period. From copy of the service report of the notice, as granted to the assessee by your office, also, it is evident that the notice was served on urdu Teacher and not on the assessee. The said teacher was neither authorized to receive such notice nor, by any stretch of imagination, can be considered to be assessee. The evidence so given also confirms the contention of the assessee made in respect of service of notice.

4. That it stands established by evidence adduced by your office that the mandatory notice under section 143(2) was not served on the assessee within the statutorily stipulated time which expired on 30.09.2012.

5. That in view of the submission made here in above, the assessment proceedings cannot be validly proceeded with, and, hence may be dropped."

However, the appellant did not make submissions which were called for vide notices u/s.142(1) of the Act and also vide show cause notices. Therefore, the AO completed the assessment based on the material available on record.

5.2 During the course of the assessment proceedings, the AO found that the appellant society has not been granted approval u/ 10(23C)(vi) of the Act by the "Prescribed Authority", whereas its gross receipt exceeds Rs.1 crore during the F.Y. 2010-11 relevant to A.Y. 2011-12. Therefore, the AO held that appellant was not entitled to the claim of exemption under this provision. However, the appellant has claimed benefit of exemption u/s 10(23C)(vi) which was evident from audit report and return of income filed. Further, the AO found that the application of the appellant for grant of exemption for the A.Y. 2012-13 u/s.10(23C) (vi) Act has also been rejected by the Chief Commissioner of Income Tax vide order F.No. CCIT/Pat/Tech-II/ 10(23C)(vi)/ 13-14/ 8431-37 dated 20.09.2013.

5.3 Further, the AO found that appellant in its return of income has shown net profit (Excess Income over Expenditure) to the tune of Rs.5,60,108/- in its income and expenditure account. Due to non approval u/s 10 (23C)(vi) of the

Act and also non-filing of submissions called for by the AO, the excess of income over expenditure amounting to Rs.5,60,108/- was taxed at maximum marginal rate of taxation by the AO and added the to the total income of the appellant.

5.3.1 The AO during the course of assessment proceedings found that the appellant had claimed depreciation to the tune of Rs.14,52,165/-. The AO in the final show cause notice asked the appellant to furnish bills and vouchers of addition made in fixed assets. However, the appellant failed to furnish the same, hence the AO disallowed proportionate depreciation of Rs.2,85,288/- on account of addition made in fixed assets and added the same to the total income of the appellant.

5.3.2 Further, the AO found that the appellant had debited in its Income and Expenditure account an amount of Rs.12,00,000/- on account of School Building Rent and Rs.70,320/- on account of advertisement totaling to Rs.12,70,320/-. The AO asked the appellant to furnish the details of TDS made on these expenses and also to furnish proof of payment of the same in Govt. Account. However, the appellant failed to produce the same. Since, the appellant could not produce any detail whatsoever regarding TDS compliance and evidence in support of these expenses, the amount of Rs.12,70,320/- was disallowed by the AO and added the same to the total income of the appellant.

5.3.3 During the course of the assessment proceedings, the AO found that the appellant has shown current liabilities and provision of Rs.1,87,745/- in its balance sheet which includes TDS Payable of Rs.10,000/-, Audit Fee payable of Rs.11,030/-, EPF payable of Rs.26,306/-, ESI payable of Rs.9,332/-, electricity payable of Rs.11,049, rent payable of Rs.1,18,826/- and telephone bills payable of Rs.1,202/-. The appellant failed to furnish any details whatsoever even after it was asked to furnish evidence vide final show cause letter by the AO. Also, the appellant did not produce books of account to verify the genuineness of these liabilities. Therefore, the current liabilities as discussed above are held to be bogus in nature by the AO. Hence, an amount of Rs.68,919/- was disallowed and added the same to the total income of the appellant excluding the amount of Rs.1,18,826/- on account of rent payable since the entire rent of Rs. 12,00,000/- has already been disallowed earlier.

5.3.4 Further, the AO found that in the balance sheet the appellant has created an earmarked fund of Rs.31,52,578/- consisting of caution money of Rs.23,84,075/- and School Building fund of Rs.7,68,503/-. The AO noticed that during the course of earlier assessment proceedings, the authorized representative of the appellant had submitted that caution money deposit and building fund has been collected by the students of the school and are refundable nature at the time of their leaving the school. The authorized representative also submitted that the society does not pay any interest or

similar charges to the students against these deposits. However, no details such as the date, amount per head, modes of these collections was provided by the appellant during the course of assessment proceedings hence, the AO held these provisions as bogus and added an amount of Rs.31,52,578/- to the total income of the appellant.

5.3.5 During the course of the assessment proceedings, the AO found that the appellant has debited an amount of Rs.31,708/- in its income and expenditure account under the head interest on car loan. The AO asked the appellant to furnish ownership details of car and original bills of purchase of car. However, the appellant failed to produce any details in this regard, the AO has disallowed and added the same to the total income of the appellant.

5.4 The grounds of appeal No.1 & 7 are general in nature. Hence, no separate adjudication is required on these grounds of appeal. Hence, the same are dismissed.

5.5 In ground of appeal No.2, the appellant has challenged the service of notice u/s.143(2) of the Act. The appellant has submitted that the service of notice under section 143(2) on Urdu teacher of the school run by the appellant society is invalid service in terms of section 282, hence, assessment under section 143(3) is also invalid. The appellant has also relied upon case laws in support of its contentions. In the remand report, the AO submitted that on verification of records, it is found that notice u/s 143(2) of the I.T. Act 1961 dated 25.9.2012 was sent to the appellant on 27.9.2012 through Speed post number EF182925175IN and another notice u/s 143(2) dated 25.9.2012 was served on the Urdu teacher of appellant trust on 29.9.2012. Further, the AO submitted that the Urdu teacher who received this notice was responsible person engaged in teaching which was one of the objectives of the appellant society. The AO submitted that the proof regarding service of notice u/s.143(2) dated 25.9.2012 was provided to the appellant by the A.O during the course of assessment proceedings. I find merit in the contentions of the AO that the notice u/s.143(2) has been served through Speed Post and also served physically to the Urdu Teacher. Therefore, the ground of appeal No.2 raised by the appellant is dismissed.

5.6 In grounds of appeal No.3 to 6, the appellant has challenged the various additions/disallowances made by the AO in the assessment order. During the course of the appellate proceedings, the appellant has submitted the paper book which was sent to the AO for the remand report. In response, the AO submitted the remand report which has been quoted above. Further, in the rejoinder, the appellant has submitted that appellant's application for grant of registration under section 12A of the Act has been granted by the ITAT, Patna Bench w.e.f. AY 2011-12 vide their order in ITA No 72/Pat/2011-12. The appellant further submitted that surplus in the hands of the appellant society

cannot be treated as income in view of the certificate issued by the CIT (Exemptions) effective from the captioned assessment year which was part of the record. The appellant further submitted that the AO has chosen not to mention this in his Remand Report. Further, the appellant submitted that the AO never asked the appellant to furnish evidence, in course of remand proceedings, in support of claim for expenses and other claims. In absence of such opportunity, additions on account of disallowances and unexplained credit balance cannot be sustained. I have gone through the submissions of the appellant and remand report submitted by the AO. It is seen that the appellant has submitted the copy of order u/s.12AA(1)(b)(i)/254 of the Act dated 04.03.2016 wherein registration was granted from A.Y. 2011-12, which is reproduced as under: [document image omitted as it is blurred]

5.6.1 It is further observed that the AO in the remand report has mentioned nothing about the said registration granted. I agree with the appellant that surplus in the hands of the appellant society cannot be treated as income in view of the certificate issued by the CIT (Exemptions) for granting of registration u/s.12A of the Act effective from A.Y. 2011-12. Therefore, the appellant is directed to furnish the evidences in support of its expenses before the AO. The AO is directed to go through the same and delete the additions, if the same are found to be in order. Therefore, the grounds of appeal No.3 to 6 are allowed for statistical purposes.

6. In the result, the appeal of the appellant is partly allowed."

5. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

6. Rival contentions were heard and the submissions made have been examined. The Ld. AR raised the issue of service of notice u/s 143(2) of the Act and contended that the service of the notice was upon the unauthorized person. Our attention was drawn to page 26 of the paper book, which was also filed before the Ld. CIT(A), in support of the claim that the notice was served upon the unauthorized person and it was questioned whether the service was valid. It was submitted that the Society runs a school and the notice dated 25.09.2012 was received by an Urdu teacher which was issued by the ACIT, Circle-1, Patna and the notice

was received by the Urdu teacher and the teacher was not authorized to receive the notice of the Society.

7. In the rejoinder, the Ld. DR submitted that as per para 5.5 of the order of the Ld. AO, the notice was served by speed post and this fact is mentioned in the remand report sent by the Ld. AO, which was sent after verification of the record. The Ld. DR submitted that the notice on the chowkidar is also a valid service. The Ld. DR drew our attention to the provision of section 124(3)(a) of the Act and submitted that the assessee is not entitled to question the jurisdiction of an Assessing Officer after one month of the service of the notice. The Ld. AR relied upon the decision of **Commissioner of Income-tax, Kanpur vs. Kanpur Plastipack Ltd. [2017] 82 taxmann.com 223 (Allahabad)/[2017] 390 ITR 381 (Allahabad)**[07-11-2016] and relied upon para 5 thereof; however, the same relates to the case of a company. The attention of the Ld. AR was drawn to page 28 of the paper book which is reproduced as under and in which it is mentioned that *In the meantime one postman came to deliver a letter containing a notice no 893 dated 25.09.2012. As there was no one present, I received the notice. After that I left for my home town Gaya taking the said letter also with me as there was no one whom I.* Thereafter the letter is illegible but apparently implies that there was no one to whom the notice could be handed over. Thus, a perusal of page 28 of the paper book shows that the notice was received on 29.09.2012 by speed post besides the service of the notice physically. Since the notice sent by speed post was received and not returned unserved, therefore, the same constitutes valid service in view of the decisions in the case of **Commissioner of Income Tax vs. Privilege Investment (P.) Ltd. [2017] 88 taxmann.com 559 (Allahabad)/[2017] 395 ITR 147 (Allahabad)**[28-04-2017] wherein

it has been held that *Notice issued under section 148 sent by post to addressee at his proper address, would be deemed to have been delivered to him in ordinary course, if not returned undelivered and such service is sufficient even for purposes of section 148* . Further, the assessee had not disputed the service of notice within one month from the date of issue of notice, therefore, the service is valid. However, the Bench noted that since the assessee was granted approval u/s 12A of the Act, therefore, to this limited extent, the assessment order is hereby set aside with a direction to the Ld. AO to consider the applicability of section 11 of the Act and thereafter recompute the income in view of the registration granted u/s 12A of the Act as claimed by the assessee. Hence, the grounds of appeal are partly allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

9. As regards **ITA No. 298/PAT/2026** for AY 2012-13, it was submitted that the assessee is a registered Society and is running a school. In Ground No. 8 the assessee has alleged that the Ld. AO erred in making double addition of the same amount (i) for alleged TDS default and (ii) under current liabilities and in Ground No. 6 it is mentioned that the credit balances appearing on the liability side of the balance sheet have been added despite the fact that the same have been added in earlier assessment years also. Since the assessee was not granted approval u/s 12A of the Act earlier and in the course of the appeal, the remand report was called for from the Ld. AO which was filed and the appeal was partly allowed. In para 5.9.3 of his order, the Ld. CIT(A) has mentioned that the Ld. AO has rectified the assessment order u/s 154 of the Act on 30.12.2016 for giving effect to registration u/s 12AA of the Act and as

regards the addition made by the Ld. AO, he directed the Ld. AO to go through the documents submitted by the assessee and allow the opportunity of hearing to the assessee to submit the documents in support of its contention. The relevant extract from the order of the Ld. CIT(A) is as under:

> *"5. Decision:*
>
> *5.1 The grounds of appeal, statement of facts, the submissions of the appellant, order passed by the AO, remand report and rejoinder of the appellant have been perused. It is seen that the appellant filed its return of income on 28.09.2021 declaring total income at Rs. NIL. Thereafter, the case of the appellant was selected for scrutiny. Accordingly, the AO issued notice u/s.143(2) of the Act on 25.09.2013 and sent through Speed Post. However, the same was returned undelivered by the Postal Department with the remark 'Grahakuplabdhnahi. Hence, the AO deputed Inspectors of the charge to serve the notice. The Inspectors have reported that they could not serve the notice since the persons present in the premises refused to receive the notice and informed them that the key persons of the society were out of premises. Hence, the Inspectors were again deputed to serve the notice. The Inspectors have served the notice through affixture in the presence of two independent witnesses and took a photograph of the notice board evidencing the service of notice. The Inspector also took a photograph of the notice board of school displaying email address of the society. Hence, the AO sent the notice on the email address of the society. However, there was no compliance from the appellant in response to the notice. Thereafter, the AO issued notices u/s. 142(1) of the Act along with questionnaire on various dates. In response, the appellant challenged the validity of service of notice u/s.143(2) of the Act before the Assessing Officer. The Assessing Officer has provided the proof for service of notice u/s.143(2) of the Act. Thereafter, the appellant requested the AO to provide the certified copy of order sheet which was also provided by the AO to the appellant. Thereafter, the AO issued final show cause notice to the appellant to make the submissions. However, the appellant reiterated its submissions that the notice u/s.143(2) was not served with the prescribed date and hence it has not complied with the notices issued u/s.142(1) of the Act. Hence, the AO completed the assessment on the basis of material available on record. The AO during the course of assessment proceedings found that the appellant application of the society for registration u/s.12AA of the Act has been rejected by the CIT-1, Patna vide order dated 18.03.2010 and the Hon'ble ITAT has also confirmed the action of the CIT by order dated 31.08.2010. Hence, the exemption u/s. 10(23C) is not available with the appellant.*

5.2 During the course of assessment proceedings, the AO found that appellant has shown excess of income over expenditure at Rs.7,39,542/- and the same has been claimed exempt by the appellant. However, since the registration u/s.12AA of the Act has been rejected to the appellant, the AO denied the claim of exemption u/s.10(23C)(vi) of the Act to the appellant and made the addition of Rs.7,39,542/- to the total income of the appellant.

5.3 Further, the AO found that the appellant has claimed depreciation to the tune of Rs.22,95,138/-. In the final show cause notice, the AO asked the appellant to furnish bills and vouchers for addition made to the fixed assets failing which proportionate depreciation will be disallowed. Since, the appellant failed to furnish the bills and vouchers in support of addition to fixed assets, the AO disallowed the proportionate depreciation to the tune of Rs.11,19,474/- and added the same to the total income of the appellant.

5.4 Further, the AO found that the appellant had incurred school building rent and advertisement expenses to the tune of Rs. 12,00,000/- and Rs.2,60,356/- respectively. However, the appellant failed to furnish the proof of TDS deducted and payment to government account on these expenses, the AO disallowed an amount of Rs. 14,60,356/- and added the same to the total income of the appellant.

5.5 During the course of the assessment proceedings, the AO found that the appellant had shown current liabilities and provisions to the tune of Rs.26,77,977/- in the balance sheet inclusive of various expenses. Since, the appellant did not furnish any evidence nor produced the books of account to prove the genuineness of these liabilities, the AO disallowed the amount of Rs.26,77,977/- and added the same to the total income of the appellant.

5.6 The AO during the course of assessment proceedings found from the Balance Sheet that the appellant had created an earmarked fund of Rs.32,87,578/- consisting of caution money of Rs.28,24,075/- and school building fund of Rs.4,63,503/-. Since, the appellant failed to produce any details with regard to these liabilities, the AO disallowed the same and added to the total income of the appellant.

5.7 Further, the AO found that the appellant has shown expenses under the head interest on car loan to the tune of Rs.30,603/-. The AO vide final show cause notice asked the appellant to furnish the details of ownership and bills of the car purchased. However, the appellant failed to produce the same before the AO during the assessment proceedings. Therefore, the AO disallowed the sum of Rs.30,603/- being the interest on car loan and added the same to the total income of the appellant.

5.8 Further, the AO found that the appellant had debited various expenses to the tune of Rs.3,50,88,854/- in the Income & Expenditure Account. The AO vide show cause notice asked the appellant to furnish the details of expenses incurred and details of TDS provisions complied with in respect of the expenses claimed under the head salary. However, the appellant failed to furnish the details of expenses incurred like bills and vouchers and also failed to furnish the books of accounts. Hence, the AO disallowed 15% of the expenses of Rs.3,50,88,854/- i.e. Rs.52,63,328/- and added the same to the total income of the appellant.

5.9 The submissions of the appellant have been quoted above. Grounds of appeal No.1 and 10 are general in nature. Hence, no separate adjudication is required on these grounds of appeal. Hence, the same are dismissed.

5.9.1 In ground of appeal No.2, the appellant has contended that no notice u/s.143(2) was served upon it. It is seen that the AO in the assessment order as well as in the remand report has contended that the notice u/s.143(2) of the Act has been returned unserved by the Postal Authorities with the remark 'Grahakuplabdhnahi. Also, the Inspector of the charge has affixed the notice on the notice board of the Society in front of two independent witnesses. Further, the AO has provided the certified copy of proof in the form of speed post details and also provided the certified true copy of order sheet as requested by the appellant. Therefore, the contentions of the appellant are found to be incorrect that the notice has not been served upon it. Therefore, the ground of appeal No.2 is dismissed.

5.9.2 In ground of appeal No.3, the appellant has contended that the AO has not followed the principles for completing the best judgment assessment. It is observed from the assessment order that the AO has issued various notices u/s.142(1) of the Act along with the questionnaire. However, there was no response from the appellant. Further, the AO also issued final show cause notice, but the appellant did not respond to the said notice also. Hence, the AO has left with no option but to complete the assessment on the basis of material available on record. I, therefore, see no fault in completing the best judgment assessment. Accordingly, the ground of appeal No.3 is dismissed.

5.9.3 In ground of appeal No.4, the appellant has contended that the AO has not granted the benefit of registration u/s. 12A of the Act. This ground of appeal becomes infructuous since the AO has rectified the assessment order u/s.154 of the Act on 30.12.2016 for giving effect of registration u/s.12AA of the Act. Accordingly, this ground of appeal is dismissed.

5.9.4 In grounds of appeal No.5 to 9, the appellant has challenged the additions made by the AO in the assessment order. During the course of appellate proceedings, the appellant has submitted the additional evidences

which were forwarded to the AO for remand report. In response, the AO has submitted the remand report. The remand report was sent to the appellant for its comments on the report submitted by the AO. In the rejoinder, the appellant has submitted that the AO never asked the appellant to furnish evidence, in course of remand proceedings, in support of claim for expenses and other claims. In absence of such opportunity, additions on account of disallowances and unexplained credit balance cannot be sustained. The contentions of the appellant appear to be correct. On going through the remand report, it is seen that the AO has not mentioned anything about the documents submitted by the appellant during the course of appellate proceedings and has merely reproduced the assessment order. Therefore, the AO is directed to go through the documents submitted by the appellant and allow the opportunity of hearing to the appellant to submit the documents in support of its contentions. The AO is further directed to delete the additions made, if the documents found to be in order. Accordingly, the grounds of appeal No.5 to 9 are allowed for statistical purpose.

6. In the result, the appeal of the appellant is partly allowed."

10. We therefore do not find any justification to interfere with the findings of the Ld. CIT(A). The service of the notice is upheld in view of the specific findings of the Ld. CIT(A). We, therefore, direct the Ld. AO to consider the claim of exemption u/s 11 of the Act in view of the documents to be filed before the Ld. AO as per law. Hence, the grounds of appeal are partly allowed for statistical purposes.

11. In the result, both the appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in the open Court on 16th October, 2026.

Sd/-	*Sd/-*
[**Yogesh Kumar US**]	[**Rakesh Mishra**]
Judicial Member	Accountant Member

Dated: 16.10.2026

Bidhan (Sr. P.S.)

Copy of the order forwarded to:

1. ***International School of Human Resource and Social Welfare Society.***
2. ***ACIT, Circle-1, Patna.***
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.