

**IN THE INCOME TAX APPELLATE TRIBUNAL “DB” BENCH, PATNA
(Through Virtual hearing at Kolkata)**

**BEFORE SHRI DUVVURU RL REDDY, VP
AND
SHRI LAXMI PRASAD SAHU, AM**

**ITA No. 534/PAT/2025
(Assessment Year: 2020-21)**

**NEW ERA SOCIAL
DEVELOPMENT WELFARE
SOCIETY**

**SHANKAR SHOPING
CENTER
HANUMAN NAGAR,
KANKARBAGH
COLONY PATNA
800020, Bihar**

(Appellant)

Vs.

**DC/AC Circle Exemption
Lok Nayak Bhawan, patna-
800001, Bihar**

(Respondent)

PAN No. AACTN0282B

**Assessee by : Shri Pawan Kumar, AR
Revenue by : Shri Ravi Kant Chowdhary, DR**

**Date of hearing: 28.07.2026
Date of pronouncement: 27.08.2026**

ORDER

Per Laxmi Prasad Sahu, AM:

This appeal is filed by the assessee against the orders passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) by the NFAC,

Delhi [hereinafter referred to as “the Ld. CIT(A)] dated 22.09.2025, ITBA/NFAC/S/250/2025-26/1081001071(1). The assessee has raised following grounds of appeal:

“1. The learned CIT (A) is erred in law and facts by confirming part of partial disallowance made by learned A.O against Salary & Rent without considering the fact that payment is quite moderate and much below the fair market value. 2. The learned CIT (A) is erred in law and facts by ignoring the lease deeds submitted during assessment proceeding. The appellant trust is using altogether five premises out of which only one premises belongs to specified person.

3. The learned CIT (A) is erred in law and by ignoring the fact that as per provisions of section 13(1) (c), payments made to specified persons against actual use of service shall not be construed benefit unless the payment exceeds the fair market value where as in the case under consideration the payments is quite moderate in comparison to the market value. 4. The appellant craves leave to add, amend alter/delete and/or modify the above grounds of appeal on or before the final hearing.”

2. Briefly stated facts are that the assessee filed the return of income on 17th December, 2020, declaring total income of ₹nil. Subsequently, the case of the assessee was selected for scrutiny under Computer Assisted Scrutiny Selection (CASS) and accordingly, notice u/s 143(2) of the Act was issued on 29th June, 2021, which was duly served upon the assessee. Subsequently, the other statutory notices were issued to the assessee. From the submissions it was noticed that the assessee’s trust namely New Era Social Development Welfare Society was engaged in running two educational institutions namely; New Era Junior School and New Era High School. The activities of the assessee’s trust are covered within the meaning of charitable purpose as defined u/s 2(15) of the Income-tax Act, 1961 (the Act). It was noticed that the assessee has transacted with specified person and hit by Sec. 13(1)(c) and 13(2)(c) of the Act. Accordingly, the assessee was requested to furnish the details of salary,

rent, interest and other payments paid to specified persons. The AO on going through audit report u/s 12A(b) of the Act and form 10B of the Act, it was noticed that following payments have been made to the following specified persons which is as under:-

“- Details	Amount
Jahane Abha (Salary)	₹8,57,528
Hushne Abha (salary)	₹8,57,528
Danyal Abha (Salary)	₹7,16,266
Danish (Salary)	₹5,39,595
Jahne Abha (Rent)	₹10,80,000
Hushne Abha (Rent)	₹10,80,000
Danyal Abha (Rent)	₹10,80,000
Total.....	₹62,10,917

3. In this regard, the assessee tried to justify the payments made to the specified persons and trusts, enclosed qualifications of the teachers and form-16, issued to the teachers and income tax return filed by them. The assessee further submitted that all payments made to the specified persons through banking channel. On verification of the form No.10B, it was noticed that in the proceeding years, there was no payments to the specified persons and this is the first year of payment made to the specified persons. Accordingly, form no.10B filed by the assessee was also in doubt. It is mandatory to give the details of specified persons in form 10B. The ld. AO after considering the entire submissions observed that no supporting documentary evidences has been brought on record by the trust to justify the deduction of the specified persons for the personal and social development of the students. The assessee has only submitted educational qualifications of the specified persons for payment of salary. The submissions made by the assessee was not found acceptable as assessee has not submitted specific details with regard to services rendered by these specified persons and various discrepancies were noted in the submissions made by the assessee. In the absence of any such corroboratory

evidences to justify the above payments, there is no other option to treat the above payments as excessive and as a means of transferring benefit to a concern controlled by specified persons and the AO drawn inference that assessee's trust has applied its income for the benefit of specified interested persons and he also observed that the payment made to the specified persons as mentioned in section 13(1)(c) of the Act are out of the purview of Section 11 of the Act and he relied on the judgement of Hon'ble Delhi High Court in case of DIT Vs. Maruti Centre for Excellence (2012) 21 taxmann.com 474 (Delhi) and after considering the entire facts and documents furnished by the assessee, he held that 50% of the payments are excessive and he allowed to the extent of 50%. Accordingly, a show cause notice was issued to the assessee dated 2nd September, 2022 and time was granted up to 9th September, 2022, but assessee failed to reply of the show cause notice issued by the AO. Accordingly, 50% of the payments made to the specified persons noted (*supra*) were disallowed of ₹31,05,458/- and apply tax rate at MMR (at the rate of 30%).

4. Aggrieved from the above order, the assessee filed before the Id. CIT (A). During the course of first appellate proceedings, the assessee furnished the details reply and tried to justify the observations of the AO, submitted that the payments made to the specified persons are not excessive and details of increase in salary were calculated from the last drawn salary. The Id. CIT noted that there is no certain specific percentage increase in the salary. He noted that the average increase in salary is 27.29% with the range of 32.46% and increase in salary for three-year period is almost double and the assessee has also not provided comparable data. He noted that a general increment in salaries to teachers is ranges around 5% to 10-15% per annum but here in the case there is a very high increase in the salary without justifying the reason for increase in the salary. Accordingly, the payments made are covered u/s 13(1)(c) of the

Act. He noted that the AO has allowed 50% of the payments to specified persons and he further allowed 25% payments to the specified persons. Accordingly, he partly allowed the appeal of the assessee.

5. Aggrieved from the above order the assessee filed the appeal before the ITAT.
6. The Id. Counsel for the assessee reiterated the submissions made before the lower authorities and further submitted that during the course of assessment proceedings all complete details were furnished in regard to employees working capacity, details of their educations and income tax return filed by them and further submitted that the AO has also not compared with any similar organizations, where salary is paid to other teachers. He further submitted in case of rent payment, the AO has not brought out any fair market value of rent and he has arbitrarily disallowed and considered as excessive payment, whereas the rent payment were as per rent agreement between the tenant and land lord. He further submitted that the Id. CIT (A) has also not properly appreciated the submissions made before him. He also filed a paper book containing page 1 to 35. He referred to page no. 1 and submitted that there is an increase in salary payment of specified persons are only 19.18% and then also similar increase on the salary payments to other specified persons which is 16.5% and he also computed the rent payment per sq.ft. which is 21.43 address Shankar Shopping Centre, No.692, Plot no.-KC-1, Circle No.51A ward 34, Hanuman nagr, patna, Ram Salil Rai market Housing No.-644/743/A, Plot no.K 94, Circle No.50 ward 44, hanuman nagar, Patna at 17.33 per sq. ft., Plot No.37, K Sector ward no.33, Circle 33, Patna, at 16.88 per sq. ft. and he submitted that the rent charges are varies on the basis of availability of the building, size of the building, location of the building and purpose for the buildings are being used and submitted that the rent payment is compared to lower than the other buildings rent in the nearby area. Accordingly, the the

assessee was paying rent as per fair market value of the building and no additions should have been made by the AO.

7. On the other hand, the ld. DR relied on the orders of the authorities and submitted that the assessee has paid excessive salary to the specified persons and both the lower authorities have rightly examined the issue and there is also payment of rent which is also excessive. This is very high increase in the salary over the years in any organizations there is no such type of increase in salary to its employees and on other expenditures also. The assessee himself computed for 19.18% to specify persons and other specified persons is 16.50%. He also submitted that in case of Jahane Abha & Husne Abha there are increase in salary by 38.80% . it is very excessive compared to other employees in other organizations. Accordingly, the ld. CIT (A) is justified to give further relief to 25% out of addition made by the . Assessing Officer.
8. Considering the rival submissions and perusing the entire materials available on record and order of lower authorities, we noted that here the dispute is only relating payments made to the specified persons that the ld. AO has treated it as excessive payments and he restricted to the payments up to 50% of the expenditure incurred by the assessee. We noted from the orders of the above stated facts that the ld. CIT (A) has considered the entire submissions. He has given further 25% relief on the additions made by the Assessing Officer. We have also gone through the comparative chart produced by the assessee, the average increase in salary to the specified persons is 19.18% and percentage of increase in salaries to other than specified persons is 16.5%. The assessee has increased salary of Jahane Abha and Hushne Abha by 38.80%, which is very excessive compared to the services rendered by them in any organizations. The average figure should not be considered. There is no such increase in salary even in the government department or any other organization every year. In the

government department generally there is increase in DA in the range of 6% to 10% every year. We considered that it is a private organization and working culture is different compared to Government organization. and expenditures are incurred only out of funds/fees received from the students as a fee and assessee is paying salary and rent out of the fee collected from students but this is a misappropriation of trust funds and payments made are not exempt u/s 13(1)(c) of the Act. The lower authorities have not physically verified whether the rented buildings were using solely for the educational purpose or not. We also note that the Id. CIT (A) has noted there is an increase in salary ranting from 32.46% to 27.29% and he also further given 25% relief to the assessee. Considering the totality of the facts and circumstances of the case and observation of the lower authorities, we held that the order of Id. CIT (A) is correct and there is no infirmity in the order passed by the Id. Commissioner of Income-tax (Appeals). Accordingly, we dismissed the appeal of the assessee.

9. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 27.08.2026.

Sd/-
DUVVURU RL REDDY
(VICE PRESIDENT)

Sd/-
(LAXMI PRASAD SAHU)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 27.08.2026

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Asst. Registrar
Income Tax Appellate Tribunal, Patna