

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "D": NEW DELHI
BEFORE SHRI H.S.SIDHU, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No. 1626/Del/2014
(Assessment Year: 2010-11)

Vishwa Dharmayatan, C-18-19, Qutab Institutional Area, New Delhi PAN:AAATV0507B	Vs.	DCIT, Central Circle-20, New Delhi
(Appellant)		(Respondent)

Assessee by :	Shri MS Sikhon, CA
Revenue by:	Shri Shravan Gotru, Sr. DR
Date of Hearing	17/08/2017
Date of pronouncement	10/10/2017

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal is preferred by the assessee against the order of the Commissioner of income tax appeals –XXXI, New Delhi dated 31/12/2013 raising following grounds of appeal:-
 - “1. That the Learned Commissioner of Income Tax (Appeals) - XXXI, Delhi, has erred in confirming the addition of donations aggregating to Rs. 32,75,013/- against the returned income of Rs. NIL.
 2. That the Learned CIT (Appeals) erred in not providing a proper and sufficient v opportunity to the appellant to provide the complete details in respect of donations aggregating to Rs. 32,71,400/- in spite if the appellant’s specific request to grant time to do so as the who had the details was abroad.
 3. That the learned CIT (Appeals) has erred in confirming the addition of Bank interest amounting to Rs. 3,613/-
 4. That the learned CIT (Appeals) has erred in not adjudicating Ground No. 4 of Form No. 35 and recording a finding that the appellant is registered under section 12A(a) of the Income Tax, 1961 and therefore, its income was to be completed under the provisions of section 11 of the Act.
 5. That the order of the Learned CIT (Appeals) is bad in law and on the facts of the case.”
2. The brief facts of the case is that assessee is a charitable trust who filed its return of income on 11/11/2011 showing nil income. Several notices were issued by the Ld. assessing officer to the assessee during the course of assessment proceedings were not responded. The assessee has claimed an income to be exempted section 11 of the income tax act. Therefore, the assessee was asked to furnished the details of donations received

by the assessee and its utilisation for charitable activities. The assessee did not furnish any detail in despite sufficient opportunities afforded to the assessee. In this regard. Therefore, the assessee was further asked to furnish the details of donation of Rs. 3271400/- credited to the income and expenditure account asking for the name and address of the persons and parties from whom the donation has been received along with the amount received as well as the mode of receiving the donation will stop the assessee despite sufficient opportunity did not furnish the aforesaid details of donation. Therefore, the assessing officer made an addition of the above sum of Rs. 3271400/- treating it as an anonymous donation. Further the bank interest on by the assessee of Rs. 3613/- was also added and consequently the total income of the assessee of Rs. 3275013/- was found to be taxable as per the assessment order under section 143 (3) of the income tax act dated 26/12/2012.

3. Assessee aggrieved with the order of the Ld. assessing officer preferred an appeal before the Ld. CIT (A). The Ld. CIT (A) after examining the details submitted by the assessee before him upheld the addition of the anonymous donation of Rs. 3271400/- . According to him the assessee has furnished only the name of the city or town of the address of the donor and whereas the perfect address was not granted and most of the donation received in cash. He held that such scanty details cannot make the assessing officer to cross verify the donor about the genuineness of the donation. It was further held by him that the exemption under section 11 of the income tax act cannot be granted to the assessee because the registration under section 12A of the income tax act is pending before the Hon'ble high court of Delhi and as assessee does not have the recognition at present there is no error in the order of the Ld. assessing officer in not granting the exemption under section 11 and 12 of the income tax act to the assessee. Therefore, assessee, aggrieved with the order of the Ld. Commissioner of income tax (appeals) has preferred an appeal before us.
4. The Ld. authorised representative submitted before us that the assessee has furnished the company detail of the donations before the Ld. assessing officer as well as before the Ld. CIT (A) however, both the authorities and held that there is no complete information available with the assessee and therefore there were penalty addition of the anonymous donation. He submitted that assessee has not been provided with the enough opportunity to provide the complete details in respect of donations despite the specific request of the appellant to grant time to do so as the trustees were out of the country. He therefore

submitted that in absence of proper opportunity to the assessee. The matter may be set-aside to the file of the Ld. assessing officer.

5. The Ld. departmental representative vehemently defended the finding of the Ld. assessing officer and submitted that CIT appeal has also confirmed the above addition, as the assessee has failed to give the correct address of the donors and most of the donation has been received in cash from them. He therefore submitted that assessee has been granted enough opportunity is as stated in the order of the Ld. assessing officer despite this, the assessee did not furnish the information is required by the assessing officer. He therefore submitted that there is no purpose in setting aside the issue back to the file of the assessing officer when the assessee has been granted enough opportunity before both the lower authorities.
6. View carefully considered the rival contention as well as perused the orders of the lower authorities. It is apparent that the assessee has not furnished the proper details before the lower authorities and which has resulted into the taxation of the anonymous donation of Rs. 32.71 lakhs. The claim of the assessee is that it has not been granted proper opportunity of hearing and as the trustees of the trust are outside India at the relevant time and therefore they did not have the information to be supplied to the assessing officer in complete manner. As the claim of the assessee is that the trustees who are having the details about the donors and the donors are also known to them, as they were out of the country despite the specific request of the assessee, proper opportunity was not granted to the assessee. This facts are contested by the assessing ground No. 2 of the appeal of the assessee. In view of above facts, we set aside whole issue back to the file of the Ld. assessing officer with a direction to the assessee to furnish the complete details of the donors getting their name, correct address, the mode of the receipt of the donation, the amount of donation received and the identification of those donors within 3 months from the date of this order, before the Ld. assessing officer. The Ld. assessing officer after the assessee submits this detail may examine and decide the issue in accordance with the law after granting assessee a reasonable opportunity of hearing. In the result ground No. 2 of the appeal of the assessee is allowed with about direction.
7. As the issue of chargeability of anonymous donation in the hands of the assessee set aside back to the file of the Ld. assessing officer. All other grounds of appeal are dismissed as not adjudicated. The assessee is also given liberty to agitate them in case the issue is decided against the assessee even after a consideration by the Ld. assessing officer in view of our direction. With respect to ground No. 2 of the appeal of the assessee.

8. In the result appeal of the assessee is partly allowed with about direction for statistical purposes.

Order pronounced in the open court on 10/10/2017.

-Sd/-

**(H.S.SIDHU)
JUDICIAL MEMBER**

-Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Dated:10/10/2017
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi