

IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH : BANGALORE

BEFORESHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER AND
SHRI LALIT KUMAR, JUDICIAL MEMBER

ITA No.1712/Bang/2017
Assessment Year : 2012-13

M/s. Sri Yoginareyana Yathindra Mutt, Kaiwara, Chintamani Taluk, Kolar District Kolar – 563 218. PAN: AAFTS 7445E	Vs.	The Income Tax Officer (Exemptions), Ward – 3, Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Ravishankar, Advocate
Revenue by	:	Shri B.R. Ramesh, JCIT (DR)

Date of hearing	:	14.02.2018
Date of Pronouncement	:	23.02.2018

ORDER

Per Shri A.K. Garodia, Accountant Member;

This appeal is filed by the assessee which is directed against the order of Id.
CIT(A) – 14, LTU, Bangalore dated 31.05.2017 for Assessment Year 2012-13.

2. The grounds raised by the assessee are as under.

“1. The Order passed by the learned Hon'ble Commissioner of Income Tax [Appeal] -14 in so far as it is against the appellant is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.

2. The learned CIT [A] failed to appreciate that the deduction of 15% under section 11 [1][a] is to be calculated on the gross receipts and not on amount left after application towards expenses incurred for the objects of the trust, under the facts and circumstances of the case.

3. The learned CIT [A] failed to appreciate that the issue whether the provisions of the gross receipts or on the net receipts has been decided by the Hon'ble Co-Ordinate Bench of decision of this Hon'ble Tribunal in the case of Jyothi Charitable Trust in 662/ Bang/2015, order dated 14/08/2015, Capuchin Friar Services of Society [ITA No.367/Bang/2015], St.Charles Medical Society Nirmal Hospital [ITA No.364/Bang/2015] and Mary Immaculate Society [ITA No.240 Et 241/Bang/2015] which has held that the accumulation of 15% under section 11[1][a] of the Act has to be computed on the gross receipts and not on the net receipts, which is squarely covered in favour of the appellant and failed to apply a binding decision is not correct in law on the facts and circumstances of the case.

4. The Appellant craves leave to add, alter, delete or substitute any of the grounds urged above.

5. In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.”

3. It was submitted by Id. AR of assessee that only one issue is involved in present appeal as to whether the deduction of 15% u/s. 11(1)(a) is to be calculated on the gross receipts or net income. He submitted that this issue is squarely covered in favour of the assessee by the Tribunal order rendered in the case of Jyothy Charitable Trust Vs. DCIT(E) in ITA No. 662/Bang/2015 dated 14.08.2015. He submitted a copy of this Tribunal order and drawn our attention to para nos. 15 to 18 of this Tribunal order. The Id. DR of revenue supported the orders of authorities below.
4. We have considered the rival submissions. We find that the Id. CIT(A) has stated on last page of his order that he respectfully differs from the decisions in the case laws noted by him in his order which includes this Tribunal order also rendered in the case of Jyothy Charitable Trust Vs. DCIT(E) (supra) and decided the issue against the assessee. We have to observe that CIT(A) was not proper in taking a different view without pointing out any difference in facts. We respectfully follow the Tribunal order of the coordinate bench rendered in the case of Jyothy Charitable Trust Vs. DCIT(E) (supra) and decide the issue in favour of the assessee and the AO is directed to allow deduction u/s. 11(1)(a) of the Act to the extent of 15% of the gross receipts.
5. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(LALIT KUMAR)
Judicial Member

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 23rd February, 2018.
/MS/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Senior Private Secretary,
Income Tax Appellate Tribunal,
Bangalore.