

**IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCHES 'B', CHANDIGARH**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER &
Ms. ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

ITA No. 1660/Chd/2017
Assessment Year: 2015-16

The DCIT,
Circle-1 (Exemptions),
Chandigarh

Vs. M/s Acharya Shri Ram Atma Jain,
Samparak Samiti, Jamalpur,
Chandigarh Road, Ludhiana

PAN No. AABTA0926C

(Appellant)

(Respondent)

Appellant By : Sh. Sh. K.S. Bains, Addl. CIT

Respondent By : Sh. Subhash Jain, CA

Date of hearing : 18.04.2018

Date of Pronouncement : 18.04.2018

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the Revenue against the order dated 29.09.2017 of the Commissioner of Income Tax (Appeals), [hereinafter referred to as CIT(A)]-4, Ludhiana.

2. The Revenue is aggrieved by the action of the CIT(A) in deleting the addition of Rs. 2,45,00,000/- which was made by the Assessing officer for not filing Form No.10 along with return of income and thereby not treating the accumulation of amount of Rs.

2,45,00,000/- as being application of income as provided u/s 11(2) of the Income-tax Act, 1961 (in short 'the Act').

3. At the outset, Ld. Counsel for the assessee has brought our attention to the assessment order and submitted that impugned additions have been made by the Assessing officer while processing the return of income u/s 143(1) of the Act. The Ld. counsel has further invited our attention to the relevant findings of the CIT(A), wherein, the Ld. CIT(A) has categorically given finding that Form 10 was filed by the assessee alongwith the return of income. However, the same could not be e-filed / uploaded due to certain reasons but could be uploaded after due date of filing of return. The assessee also furnished the relevant evidence of furnishing the form No.10 before the CIT(A) also. The CIT(A) who is having powers that are co-terminus with that of the Assessing officer observed that form No.10 can be filed even during the assessment proceedings also. The observation of the CIT(A), in our view, is as per the settled proposition of law in the light of the judicial decisions on this issue.

The Ld. counsel, has further submitted that though the Assessing officer was not supposed to make the addition u/s 143(1) of the Act while processing the return as the issue relating to disallowance over the additions for belated filing of form No.10 was a debatable issue, which could have been decided by the Assessing officer only during regular assessment proceedings u/s 143(3) of the Act.

4. The Ld. CIT(A) after considering the settled position of law and having jurisdiction and powers co-terminus with that of the Assessing officer has rightly held that the assessee had sufficiently made compliance to the provisions of section 11(2) of the Act.

5. The Ld. DR could not point out any distinguishing point either on fact or law in the order of the CIT(A) in this respect. We, therefore, do not find any merit in the appeal of the Revenue and the same is hereby dismissed.

Order pronounced in the Open Court

Sd/-

(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Dated :18.04.2018

Rkk

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT*
4. *The CIT(A)*
5. *The DR*

Sd/-

(SANJAY GARG)
JUDICIAL MEMBER