

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH, AHMEDABAD**

[Coram: Pramod Kumar, AM and Ms. Madhumita Roy, JM]

ITA No. 1017/Ahd/2018
Assessment Year: 2014-15

D.L. Ashish Foundation Trust**Appellant**

*C/o. Jatin Jani, 64, Asopalav Bunglows,
Near Vishwa Bharti School,
Thaltej, Ahmedabad-380059
[PAN : AAATD 3625 Q]*

Vs.

Income Tax Officer**Respondent**

*Exemption, Ward-1,
Ahmedabad*

Appearances by:

None for the Appellant

Saurabh Singh for the Respondent

Date of concluding the hearing : 22.06.2018

Date of pronouncing the order : 26.06.2018

O R D E R

Per Pramod Kumar, AM:

1. By way of this appeal, the assessee-appellant has raised the grievances, as set out below, against the *ex-parte order* dated 14th November, 2017 passed by the by the learned CIT(A)-7, Ahmedabad in the matter of assessment under section 144 of the Income-tax Act, 1961, for the assessment year 2010-11:-

"1. Order without disposing off all grounds of appeal:

The learned Commissioner of Income-tax (Appeals) grossly erred in passing order under section 250 of the Income-tax Act, without disposing off all grounds of appeal before him. The order is passed is not a speaking order for each ground of appeal and thus order is passed without observing conditions laid down in Section 250(6) of the Act.

2. Order on the basis of doubt and guess work:

The learned Assessing Officer has observed from Auditors Report that the Assessee trust has carried out charitable activities and incurred expenses to carry out such charitable activities. The learned AO grossly erred in considering 80% expenses for charitable and 20% of expenses incurred are for other objects without rejecting audited books and reports of auditors.

3. Approval under Section 12A/AA and Charitable Activities:

The learned AO has failed to observe the fact that the assessee trust is having registration under section 12AA of the Act and is engaged in charitable

activities as defined in section 2(15) of the Act during the year. Thus order passed by AO is unlawful and has no legs to stand.

4. Disallowance of depreciation :

The Learned AO and CIT Appeals has grossly erred in disallowing depreciation of Rs.1,17,094/- as application of income.

5. Section 13 of the Income Tax Act:

The learned Assessing Officer has observed that income of the Assessee trust is advanced to persons referred to section 13(3) of the Act. However, as a matter of fact, said advances are given to such persons for construction of new school building. Therefore under the circumstances, such advances were not in violation of section 13 of the Act.”

2. When this appeal was called out for hearing, it has been noticed that the appeal has been dismissed *ex-parte* and as such the issues raised by the assessee, as reflected in the grounds of appeal, have not been examined on merits by the learned CIT(A). In this view of the matter and with the consent of learned Departmental Representative, the matter is remitted to the file of the learned CIT(A) for the limited purpose of adjudicating above grievances. While doing so, learned CIT(A) will give yet another opportunity of hearing to the assessee and decide the matter on merits in accordance with law.

3. In the result, appeal is allowed for statistical purposes. Pronounced in the open court today on the 26th June, 2018

Sd/-

Ms. Madhumita Roy
(Judicial Member)

Sd/-

Pramod Kumar
(Accountant Member)

Ahmedabad, the 26th day of June, 2018

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Copies to: (1) The appellant
(2) The respondent
(3) Commissioner
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

TRUE COPY

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad