

2.1 The return was processed u/s 143(1) of the Act and subsequently the case was selected for scrutiny. Accordingly, statutory notices were issued to the assessee. Since there was no response to the notices issued by the AO, the AO completed the assessment u/s 143(3) rws 144 of the Act, determined the assessed income of the assessee at Rs. 15,00,000/- by observing that since the assessee is not registered u/s 12AA of the Act, then the voluntary contribution received is taxable as per section 2(24)(ia) of the Act.

3. Against the above order, the assessee preferred an appeal before the CIT(A) and the CIT(A) confirmed the order of AO by observing that the assessee has not filled the columns at Form No. 35 pertaining to statement of facts and grounds of appeal.

4. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising the following grounds of appeal:

"1) The order of the learned Commissioner of Income-tax (Appeals) is erroneous both on facts and in law.

2) The learned Commissioner of Income-tax (Appeals) erred in holding that the appellant is not entitled for exemption u/s 11 of the I.T. Act.

3) The learned Commissioner of Income-tax (Appeals) erred in confirming the action of the Assessing Officer in treating Rs. 15,00,000/- as the income of the appellant.

4) The learned Commissioner of Income-tax (Appeals) ought to have seen that the amount of Rs.15,00,000/- was donated by the corporate bodies for specific purpose of promoting healthy life style.

5) Any other ground or grounds that may be urged at the time of hearing."

5. The Id. AR submitted that assessee failed to raise any grounds or statement of facts before the CIT(A). In that regard, assessee has filed a petition to confirm that it has not filed any grounds of appeal or statement of facts before the CIT(A). The Id. AR submitted that as per

Explanation to section 251, makes it obligatory on the part of the CIT(A) to dispose of the appeal as per the matter raised by the appellant. He submitted that in the given case, CIT(A) has adjudicated the matter based on presumed grounds of appeal. He, therefore, submitted that the order passed by the CIT(A) is not as per the powers vested upon him u/s 251. He, therefore, submitted that the matter may be remitted back to the file of CIT(A) to adjudicate the matter afresh. Further, he submitted that AO has considered the total receipt as income of the assessee without considering the relevant expenditure, which was incurred for the purpose of carrying on the objects of the trust. He, therefore, requested that the case may be remitted back to the file of AO to do the assessment afresh.

6. Ld. DR, on the other hand, relied on the orders of revenue authorities.

7. Considered the rival submissions and perused the material on record. We notice that assessee has not filed any grounds of appeal or statement of facts before Id. CIT(A) and may be because of ignorance or because it was unaware of the procedures to file appeal before the CIT(A). Further, we notice that AO has considered the whole receipts as income of the assessee as the assessee does not have registration u/s 12A. AO has not even considered the relevant expenditure and failed to verify the same, whether it was expended towards carrying out the objects of the trust or not?. In our view, it needs fresh verification of income and expenditure of the trust. We deem it fit to remit the matter back to the file of the AO to make assessment de-novo in accordance with law after providing reasonable opportunity of being heard to the assessee.

8. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on 15th November, 2018.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Hyderabad, Dated: 15th November, 2018.

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Copy to:-

- 1) *Prevent NCD Foundation, 5-8-316, 7th Floor, Raghavaratna Towers, Abids, Hyd.*
- 2) *ITO (Exemptions) - 3, Ayakar Bhavan, Basheerbagh, Hyd.*
- 3) *CIT(A) – 9, Hyderabad.*
- 4) *CIT(Exemptions), Hyd.*
- 5) *The Departmental Representative, I.T.A.T., Hyderabad.*
- 6) *Guard File*