

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCHES (CAMP AT MEERUT))**

**BEFORE SHRI N.S. SAINI, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.5705/Del./2018
(ASSESSMENT YEAR : 2015-16)**

Meerut Charitable Welfare Society, vs. ITO (Exemption) Ward,
C/o Shahida Noor, Meerut.
N – 102, Era Gardenia Estate,
Delhi Road, Meerut.

(PAN : AACAM4291Q)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None

REVENUE BY : Shri Munshi Ram Bihagra, Senior DR

Date of Hearing : 10.01.2019

Date of Order : 24.01.2019

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

The appellant, Meerut Charitable Welfare Society (hereinafter referred to as 'the assessee') by filing the present appeals, sought to set aside the impugned order dated 29.06.2018 passed by Id. CIT (Appeals), Meerut qua the assessment year 2015-16 on the grounds inter alia that :-

“1 The learned CIT (Appeal) was not justified by partly dismissing the appeal.

2. The learned Commissioner of Income Tax (Appeal) has erred in summarily rejecting the plea of the appellant with respect to following.

a) That the Learned Assessing Officer has erred on fact by arbitrary expenditure of Rs.7,71,552/- of appellant society.

b) That the several observations as made and inferences drawn are untenable, incorrect, unwarranted.”

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : Assessing Officer framed the assessment under section 144 of the Income-tax Act, 1961 (for short ‘the Act’) by disallowing the amount of Rs.7,71,352/- out of expenditure of Rs.15,43,104/- claimed by the assessee on the ground that despite issuance of numerous repeated notices, the assessee has failed to join the assessment proceedings.

3. Assessee carried the matter by way of an appeal before the Id. CIT (Appeals) who has partly allowed the appeal. Feeling aggrieved, the assessee has come up before the Tribunal by way of filing the present appeal.

4. Assessee has not preferred to put in appearance despite issuance of the notice and consequently, we proceeded to decide the present appeal with the assistance of the Id. DR as well as on the basis of documents available on the file.

5. We have heard the Id. Departmental Representative for the revenue to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

6. Bare perusal of the impugned order passed by the Id. CIT (A) goes to prove that the assessee has sought to lead additional evidence by moving an application under Rule 46 of the Income-tax Rules, 1962 (for short 'the Rules') to prove his case, but the Id. CIT (A) dismissed the application on the ground that since numerous opportunities have already been granted to the assessee by the AO. Assessee is not entitled for any further opportunity to adduce evidence.

7. Since undisputedly the assessee remained unrepresented during the assessment proceedings, though the AO claimed to have issued numerous notices but it is not visible from the assessment order if any of the notices issued was served upon the assessee and if served, on which date. Moreover, when the assessee has come up with application under Rule 46 of the Rules before the Id. CIT (A) to adduce the evidence particularly when assessment is framed ex-parte as in the appeal, assessee has the vested right to prove his case irrespective of his non-appearance before AO, which cannot be denied by CIT (A). So, we are of the considered view that the

assessee is entitled for adequate opportunity of being heard before passing the assessment order.

8. In view of what has been discussed above, we are of the considered view that the assessment order framed against the assessee u/s 144 of the Act is liable to be set aside, consequently the case is remanded back to the AO to decide afresh after providing an opportunity of being heard to the assessee.

9. Resultantly, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in open court on this 24th day of January, 2019.

**Sd/-
(N.S. SAINI)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 24th day of January, 2019
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), Meerut.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**