

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A" : HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No.	A.Y.	Appellant	Respondent
1892/Hyd/17	2013-14	Sri Digambar Jain Mumukshu Mandal, SECUNDERABAD [PAN: AAJTS0068D]	Income Tax Officer, Exemptions-4, HYDERABAD
1893/Hyd/17	2014-15		Income Tax Officer (Exemption), Ward-1(1), HYDERABAD
2231/Hyd/18	2016-17		

For Assessee : Shri Ajay Gandhi, AR
For Revenue : Shri Kiran Katta, DR

Date of Hearing : 28-03-2019
Date of Pronouncement : 05-04-2019

ORDER

PER Smt. P. MADHAVI DEVI, J.M. :

All these are assessee's appeals for the AYs. 2013-14, 2014-15 & 2016-17. Since all the appeals are of the same assessee and are on the same issue, all these applications were heard together and are disposed-of by this common and consolidated order.

2. Brief facts of the case are that the assessee is a trust, formed by Trust Deed dated 01-07-1985. The Trust sought registration u/s. 12A of the Income Tax Act [Act] on

15-10-1985. It is stated that no action was taken on the said application and meanwhile, the assessee had filed income tax returns for the AYs. 2013-14, 2014-15 & 2016-17 respectively, claiming exemption for minimum threshold as per the rates of tax applicable to individuals. Thereafter, the assessee received communication u/s. 139(9), dt. 05-08-2015 from CPC indicating as under:

*- The income of the assessee exceeds 2 Lakhs and
audit flag is "NO" -*

2.1. In response to the said notice, the assessee filed audit report in Form 10B on 01-09-2015 to cure the defect pointed out by the CPC. The return was processed u/s. 143(1) of the Act and an intimation dt. 15-01-2016 was issued by the CPC, wherein the entire amount of application for revenue utilised for the objects of the Trust claimed in ITR as a deduction was disallowed and the maximum marginal rate of tax was applied.

2.2. The assessee therefore filed an application u/s. 154 of the Act, electronically on 17-05-2016, requesting for correction of the errors in the intimation u/s. 143(1) of the Act. Vide communication dt. 02-06-2016, the CPC rejected the request for rectification. However, it was stated that '*due to technical reasons, the rectification rights in assessee's cases are being transferred to the Assessing Officer*'. The assessee was directed to contact the Assessing Officer for the same. According to the assessee, thereafter, no formal communication was received from the jurisdictional Assessing Officer regarding its 154

applications and subsequently, on verification of the IT portal, it came to know that the rectification request was rejected on 01-12-2016, but no formal communication or intimation was received to this effect by the assessee. The assessee, therefore, filed an application before the CIT(A), seeking a direction for disposal of its applications u/s. 154. The CIT(A), however, rejected the same and the assessee is in second appeal before us.

3. During the course of hearing on 14-03-2019, the Ld. Counsel for the assessee has drawn our attention to the assessee's applications u/s. 154 of the Act and the communication from the CPC dt. 02-06-2016 and also the copy of the extract from the IT portal wherein it is stated that on 01-12-2016, rectification request of the assessee was rejected. Therefore, we directed the Ld.DR to get instructions on these documents and also to produce the copies of the orders rejecting the assessee's applications u/s. 154 of the Act.

3.1. To-day i.e., on 29-03-2019, Ld.DR has filed copy of the letter dt. 20-03-2019, stating that no rectification orders u/s. 154 of the Act were passed by the ITO, Ward-1(1), Hyderabad for any of the assessment years in the case of assessee. It is also stated that the assessment in this case is also not completed u/s. 143(3) of the Act prior to AY. 2013-14 and that the assessee also has not claimed any exemption u/s. 11 of the Act in any of these assessment years. Screen shots of these particulars along with this letter are also filed before us. Thus,

it is seen that there are no orders of the Assessing Officer, rejecting the assessee's applications u/s. 154 of the Act.

4. Having gone through all the material and having considered the necessary facts, it is seen that the assessee has filed the applications u/s. 154 of the Act electronically and the CPC, without giving any notice to the assessee, has rejected the assessee's application. Further, it was stated that the matter is being referred to the Assessing Officer. According to the Ld.DR, CPC is a machine and therefore, it could not have given notices to the assessee for adjudication of the applications u/s. 154 of the Act and therefore, the same was referred to the Assessing Officer. However, it is noticed that even the Assessing Officer has not given any notice to the assessee nor has passed any orders u/s. 154 of the Act, but the IT portal contains the information that, vide orders dt. 01-12-2016, rectification request was rejected. From where this information has been fed into the IT portal is not known.

4.1. However, all this mis-information has led the assessee to file an appeal before the CIT(A), who at-least could have verified the facts but has summarily rejected the assessee's applications leaving the assessee to approach this Tribunal by paying court fee of nearly Rs. 10,000/- each for the AYs. 2014-15 & 2016-17 and Rs. 8,837/- for the AY. 2013-14. Thus, it is seen that without any fault of the assessee, the assessee has been driven from pillar to post causing mental and physical stress including financial burden. We hope that the

department will look into these aspects and correct the system and place standard procedures to address such grievances of all such assessees.

4.2. In this case, since the applications u/s. 154 filed by the assessee have not been looked into by the relevant jurisdictional Assessing Officer, we deem it fit and proper to remit the issues back to the file of the jurisdictional Assessing Officer, with a direction to consider the assessee's applications u/s. 154 of the Act in accordance with law, after giving the assessee a fair opportunity of hearing.

5. In the result, all the appeals of assessee are considered as allowed for statistical purposes.

Order pronounced in the open court on 5th April, 2019

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Hyderabad, Dated 5th April, 2019

TNMM

Copy to :

- 1. Sri Digambar Jain Mumukshu Mandal, Secunderabad.
C/o. Ganghi & Gandhi, Chartered Accountants, 1002,
Paigah Plaza, Basheerbagh, Hyderabad.*
- 2. The Income Tax Officer, Exemptions-4, Hyderabad.*
- 3. The Income Tax Officer (Exemption), Ward-1(1),
Hyderabad.*
- 4. CIT (Appeals)-9, Hyderabad.*
- 5. CIT-Exemptions, Hyderabad.*
- 6. Pr.CIT-1, Hyderabad.*
- 7. D.R. ITAT, Hyderabad.*
- 8. Guard File.*