

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "बी" चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B', CHANDIGARH

श्री एन. के. सैनी, उपाध्यक्ष एवं श्री संजय गर्ग, न्यायिक सदस्य
BEFORE SHRI N.K. SAINI, VICE PRESIDENT &
SHRI SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 553/CHD/2019

निर्धारण वर्ष / Assessment Year : 2014-15

PEC University of Technology Pension Fund, College Building, PEC University, Administrative Block, Sector 12, Chandigarh	Vs. बनाम	The DCIT , Circle-1 Exemption, Chandigarh
स्थायी लेखा सं./PAN NO: AACTP1935B		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri M.L. Sharma, Advocate

राजस्व की ओर से/ Revenue by : Shri Manjit Singh, CIT DR

सुनवाई की तारीख/Date of Hearing : 04.12.2019

उद्घोषणा की तारीख/Date of Pronouncement : 27.01.2020

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee the order dated 30.01.2019 of the Commissioner of Income Tax-2, Chandigarh [hereinafter referred to as 'CIT(A)'] upholding the action of the Assessing Officer / CPC in rejection of rectification application of the assessee moved u/s 154 of the Income Tax Act, 1961 (in short 'the Act').

2. The brief facts of the case are that the assessee trust is an irrevocable Pension Fund trust created on 01.03.2007 under the PEC University of Technology Society to provide for the operation, control and maintenance of the Pension Fund of the employees of PEC University of Technology. The sole purpose of this fund is to make provision for the payment of pensionary benefits including family pension to the employees of the PEC University of Technology. The trust is not registered u/s 12AA of the Act. However, the assessee Trust filed its return of income treating it to be a 'charitable trust' and application of income was claimed at Rs. 2,22,49,629/- as against the declared income of Rs. 2,00,57,061/-. The Assessing Officer / CPC disallowed the entire claim of the application of income on the ground that the assessee trust was not registered u/s 12A of the I.T. Act, therefore, entire gross receipts of Rs. 2,22,49,629/- were added back to the returned income of the assessee in the proceedings carried out u/s 143(1) of the Act. Thereafter, assessee moved a rectification application u/s 154 of the Act pleading that even if the assessee is assessed as an AOP, the assessee may be granted the claim of revenue expenditure which has been claimed as application of income in the return of income. However, the said application was also rejected by the CPC.

3. Being aggrieved by the said order of the CPC, the assessee filed appeal before the Ld. CIT(A), however, the Ld. CIT(A) also dismissed

the appeal of the assessee. Hence, the assessee has come in appeal before us.

4. The Ld. Counsel for the assessee has submitted that under similar circumstances, the claim of the expenditure has been allowed by the CPC for the assessment year 2016-17 vide order dated 26.9.2018, copy of the assessment order has been placed on record. We find force in the contention of the Ld. Counsel for the assessee that if the assessee has not been treated as a charitable trust, still the income of the assessee is to be assessed as per the normal provisions of the Act and the admissible revenue expenditure is to be allowed against the income of the assessee.

In view of this, the impugned order of the CIT(A) is set aside, the matter is restored to the file of the Assessing Officer for deciding it afresh, treating the assessee's income as an AOP and considering the claim of the assessee of allowability of expenditure which was inadvertently claimed as application of income in the return of income.

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

Order pronounced in the Open Court on 27.01.2020.

Sd/-
(एन. के. सैनी / N.K. SAINI)
उपाध्यक्ष /Vice President
Dated : 27.01.2020
"आर.के."

Sd/-
(संजय गर्ग / SANJAY GARG)
न्यायिकसदस्य/ Judicial Member

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायकपंजीकार/ Assistant Registrar