

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
श्री एस. जयरामन, लेखा सदस्य के समक्ष
**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.533/Chny/2018
निर्धारण वर्ष /Assessment Year: 2013-14

M/s.Jaya Educational Trust,
8, 2nd Main Road, Krishnapuram,
Thiruninravur, Chennai-602 024.

Vs. The Principal Commissioner
of Income Tax,
Central-1, Chennai.

[PAN: AAATJ 0369 D]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	None
प्रत्यर्थी की ओर से /Respondent by	:	Mr. Abani Kanta Nayak, CIT
सुनवाई की तारीख/Date of Hearing	:	05.11.2020
घोषणा की तारीख/Dt. of Pronouncement	:	10.11.2020

आदेश / ORDER

PER SHRI S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the Principal Commissioner of Income Tax, Central-1, Chennai, passed u/s.263 of IT Act, in C.No.1523/PCIT/C-1/3/2017-18 dated 21.12.2017 for the AY 2013-14.

2. The Principal Commissioner of Income Tax (PCIT) examined the records of the assessee, M/s.Jaya Educational Trust and found that the Assessing Officer in the Scrutiny assessment made for the AY 2012-13 found that the Trust has availed loans from banks by pledging its Fixed Deposits and advanced interest free loans to certain persons in

contravention of Sec.13(2) of the IT Act and hence denied exemption u/s.11 of the IT Act. Since the above violation continued to exist in the AY 2013-14, the AO ought to have denied the exemption and taxed the surplus. However, in the assessment made for the AY 2013-14, the AO has not considered this aspect. Therefore, the PCIT issued a show cause notice u/s.263 of the IT Act. Since the assessee has neither attended the hearing nor filed the written submissions to the show cause notice, set aside the Assessment Order for the AY 2013-14 u/s.263 of the IT Act and directed the AO to re-do the assessment denying exemption u/s.11 and to treat the entire surplus as income.

3. Aggrieved against that order, the assessee filed this appeal. The case was posted for hearing through video conferencing. None appeared on behalf of the assessee. The Ld.DR supported the order of the Ld.PCIT.

4. We heard the Ld.DR and gone through the relevant materials. It is clear from the order u/s.263 of the IT Act that the assessee has not been granted adequate opportunity of being heard. Therefore, we set aside the order u/s.263 and remit the issues back to the PCIT for affording effective opportunity of being heard to the assessee and then decide the issues on merits in accordance with law.

5. In the result, the assessee's appeal is treated as partly allowed for statistical purposes.

Order pronounced on the 10th day of November, 2020, in Chennai.

Sd/-

(वी. दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य /ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated: 10th November, 2020.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF