

**IN THE INCOME TAX APPELLATE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD**

**(THROUGH VIRTUAL COURT),**

**BEFORE SHRI.VIJAY PAL RAO, JUDICIAL MEMBER  
AND SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

**ITA No.109/ALLD/2020  
Assessment Year: 2017-18**

<b>Krishi Utpadan mandi Samiti, Sirsa PAN-AAAJK0832A</b>	v.	<b>DCIT-CPC, Bangalore (Local ITO-1(2), Allahabad</b>
(Appellant)		(Respondent)

**Stay Application No.16/ALLD/2020  
Assessment Year: 2017-18**

<b>Krishi Utpadan mandi Samiti, Sirsa PAN-AAAJK0832A</b>	v.	<b>DCIT-CPC, Bangalore (Local ITO-1(2), Allahabad</b>
(Appellant)		(Respondent)

Appellant by:	Ms. Sweta Mittal, CA
Respondent by:	Mr. A.K. Singh, Sr. DR
Date of hearing:	15.12.2020
Date of pronouncement:	16.12.2020

**ORDER**

**PER SHRI VIJAY PAL RAO, JUDICIAL MEMBER:**

This appeal by the assessee is directed against the order dated 28<sup>th</sup> February, 2020 of CIT(A) arising from the processing issued by the Central CPC under section 143(1) for the assessment year 2017-18. The assessee has raised the following grounds:-

- 1. The Ld. Commissioner of Income-tax (Appeals) has erred in law and on facts in passing the order, which is unlawful, unjustified and against the principles of natural justice.*
- 2. The Ld. Commissioner of Income-tax (Appeals) has erred in law and on facts has erred in law and on facts in not exercising his power to allow deduction / exemption to the appellant to which it was entitled even though no claim made in the return by mistake.*
- 3. The Ld. Commissioner of Income-tax (Appeals) has erred in law and on facts in not granting exemption u/s 10(26AAB) of Income-tax Act to the appellant to which it is lawfully entitled.*
- 4. That no tax can legally be charged from the appellant whose entire income is exempt u/s 10(26AAB) of the Income-tax Act, 1961.*
- 5. The Ld. Commissioner of Income-tax (Appeals) has erred in law and on facts in not granting exemption u/s 11, 12 & 13 of Income-tax Act, 1961 as claimed by the appellant.*

2. We have heard the learned AR as well as learned DR and considered the relevant material on record. The assessee society is registered under section 12A of the Income Tax Act and filed its return of income on 14.9.2017 declaring nil income after claiming the exemption under section 11 to 13 of the Income Tax Act. The CPC while processing the income under section 143(1) has made an adjustment on account of denial of exemption under section 11 and 12 of the Income Tax Act and raised the demand of Rs. 90,90,426/-. The assessee challenged the adjustment made while processing the return under section 143(1) before the CIT(A) and submitted that the assessee is also eligible for deduction / exemption under section 10(26AAB) of the Income Tax Act. The CIT(A) declined to allow the claim of the assessee and consequently the appeal of the assessee was dismissed.

3. The learned AR has pointed out that subsequently the AO has taken up the matter for compulsory scrutiny under CASS and passed the assessment order under section 143(3) on 18.11.2019 whereby the AO has accepted the return income at nil. A copy of the assessment order passed under section 143(3) is already placed on

record. Thus the learned AR has submitted that in view of the assessment order passed under section 143(3), the adjustment made while processing the return under section 143(1) becomes nullity. On the other hand, the learned DR has fairly accepted the fact that after the processing of return of income the AO has passed scrutiny assessment order under section 143(3) on 18.11.2019 and accepted the returned of income at nil.

4. In view of the fact that in the scrutiny assessment, the AO has allowed the exemption under section 10(26AAB) of the Income Tax Act and thereby the assessment was completed at nil income declared by the assessee in the return of income, the adjustment made by the Department / CPC while processing the return of income under section 143(1) becomes nonest being merged with the scrutiny assessment. Consequently the impugned order of the CIT(A) confirming the processing under section 143(1) also becomes nonest. Accordingly the impugned order of the CIT(A) is set aside being nonest in view of the scrutiny assessment order passed by the AO accepting the claim of exemption under section 10(26AAB) of the Income Tax Act.

**Stay Application No. 16/ALLD/2020**

5. In view of our order disposing of the appeal of the assessee, the stay becomes infructuous and accordingly dismissed.

6. In the result, appeal of the assessee is allowed and the Stay application is dismissed.

Order pronounced in the open Court on 16.12.2020 through video conferencing.

***Sd/-***

[RAMIT KOCHAR]  
ACCOUNTANT MEMBER

***Sd/-***

[VIJAY PAL RAO]  
JUDICIAL MEMBER

DATED: 16/12/2020

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1. Appellant –
2. Respondent –
3. CIT(A) , Allahabad
4. CIT
5. DR -

By order  
Assistant Registrar

		Date	Initials	
	Original dictation pad is enclosed at the end of file			
1.	Draft dictated on:	15.12.2020		Sr. PS/PS
2.	Draft placed before author:	.12.2020		Sr. PS/PS
3.	Draft proposed & placed before the second member:			JM/AM
4.	Draft discussed/approved by Second Member:			JM/AM
5.	Approved Draft comes to the Sr. PS/PS:	.12.2020		Sr. PS/PS
6.	Order pronounced on:	.12.2020		Sr. PS/PS
7.	File sent to the Bench Clerk:	.12.2020		
8.	Date on which file goes to the Head Clerk:			Sr. PS/PS
9.	Date on which file goes to AR			
10.	Date of dispatch of Order:			