

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री धुव्वुरु आर.एल. रेड्डी, न्यायिक सदस्य एवं
श्री एस. जयरामन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU R.L. REDDY, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2251/Chny/2019
निर्धारण वर्ष /Assessment Year: 2010-11

M/s. Dr.D.John Ponnudurai-
Educational Trust,
No.25A, New Colony,
Alwar Thirunagar,
Chennai-600 087.

v. The Dy. Commissioner of
Income Tax,
Exemption-III,
Chennai.

[PAN: AAATD 6839 L]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by
सुनवाई की तारीख/Date of Hearing
घोषणा की तारीख/Dt. of Pronouncement

: Mr.S.Sridhar, Adv.
: Mr.G. Chandrababu, Sr.DR
: 07.12.2020
: 09.12.2020

आदेश / O R D E R

PER SHRI S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-10, Chennai, in ITA No.94(Tr.)/13-14/CIT(A)-10 dated 13.05.2019 for the AY 2010-11.

2. M/s. Dr.D.John Ponnudurai Educational Trust, the assessee, is a society registered u/s.12AA and is running Educational Institutions & Hospitals. While making the assessment u/s.143(3) of the Act, the AO found that the assessee has not produced proof towards capital expenditure of Rs.69,96,962/- and Revenue expenditure of Rs.1,53,00,343/- and hence

disallowed these expenditure and determined the total application. Since the determined application is within 85% of assessee's receipts, he quantified the total income at 'Nil'. Subsequently, the AO issued a notice u/s.154 proposing to assess part of the disallowed amount as deemed income u/s.11(1) read with CBDT Circular No.5-P(LXX-6) of 1968 dated 19.06.1968, separately. The omission of which is an apparent mistake from the record and hence, he proposed to revise the assessment. The assessee objected to the same. Overruling it, the AO revised the income in his order u/s.154 dated 27.09.2013 determining the total income at Rs.1,53,00,343/- . Aggrieved, the assessee filed an appeal before the Commissioner of Income Tax(A) and the Ld.CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The case was heard through videoconferencing. The Ld.AR submitted that the assessee is a society registered u/s.12AA of the Act and it is running Educational Institutions & Hospitals. In the assessment made u/s.143(3), the AO added the disallowances and re-determined the total application, which was well within 85% of the total receipts. Therefore, he concluded the assessment determining the taxable income 'nil'. Subsequently, he issued the impugned notice u/s.154 and determined the total income at Rs.1,53,00,343/- which is not correct. When we enquired as to how the assessee could not prove the impugned claim, the Ld.AR submitted that the assessee may be given an opportunity to produce the required evidence/material to prove that the impugned expenditure were incurred

towards the purposes of assessee trust. Per contra, the Ld.DR submitted that if the issues are remitted back to the file of the AO for re-examination, he has no objection.

4. We heard the rival submissions and gone through the relevant materials. It is clear that the assessee is a society registered u/s.12AA of the Act and it is running Educational Institutions & Hospitals. The nature of Revenue expenditure disallowed by the AO appears to be verifiable viz., salary, electricity charges, staff welfare, etc., from the primary/secondary evidences. Being a charitable organization, we are of the view that these issues require a fresh examination and hence, we remit the issues back to the AO for fresh examination. The assessee shall produce all original primary/secondary evidences/materials before the AO in support of its contentions so that the genuineness of the expenditure claimed could be examined and appropriately dealt with by the AO. The AO on due examination and after affording adequate opportunity to the assessee, shall pass an order on merits.

5. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced on the 09th day of December, 2020, in Chennai.

Sd/-
(धुव्वुरु आर.एल. रेड्डी)
(DUVVURU R.L. REDDY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-
(एस. जयरामन)
(S. JAYARAMAN)
लेखासदस्य /**ACCOUNTANT MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 09th December, 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