

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
“SMC”**

ITA No.670/Bang/2020
Assessment Year: 2018-19

Goodwill Management Pvt. Ltd. No.43, 1 st Floor, Kilari Road Avenue Road Cross Bengaluru 560 053. PAN NO : AACCG2858B	Vs.	Deputy Commissioner of Income-tax (CPC) Bengalore
APPELLANT		RESPONDENT

Appellant by	:	Smt. Suman Lumkar, A.R
Respondent by	:	Shri Ganesh Ghale, Standing Counsel

Date of Hearing	:	29.03.2021
Date of Pronouncement	:	15.04.2021

ORDER

The appeal filed by the assessee is directed against the order dated 18.9.2020 passed by Ld. CIT(A)-3, Bengaluru and it relates to the assessment year 2018-19. The assessee is aggrieved by the decision of Ld. CIT(A) in confirming the adjustment made to the total income in the intimation issued u/s 143(1) of the Income-tax Act,1961 [‘the Act’ for short].

2. The facts relating to the issue are stated in brief. The assessee filed its return of income declaring Nil income on 20.9.2018 and the same was processed u/s 143(1) of the Act on 10.6.2019. In the computation of income, the assessee had claimed dividend income of

Rs.13.37 lakhs as exempt. However, the assessee omitted to fill the details of exempt in "Schedule-EI" in the Statutory return form prescribed for filing returns. It is pertinent to note that the assessee had mentioned that the dividend income of Rs.13.37 lakhs is exempt in "Schedule BP" relating to computation of "income from business or profession". Hence, while processing return u/s 143(1) of the Act, the Centralised Processing Centre (CPC) did not grant exemption claimed by the assessee and accordingly, computed the total income of the assessee at Rs.13.37 lakhs. Accordingly, it raised demand upon the assessee.

3. The assessee challenged the adjustment made in the intimation given u/s 143(1) of the Act by filing appeal before Ld. CIT(A). The first appellate authority observed that the assessee has omitted to mention the details of exempt income in schedule EI. He also observed that the assessee did not file revised return of income, even though the discrepancy was informed by CPC to the assessee. Accordingly, the Ld. CIT(A) declined to interfere with the intimation issued u/s 143(1) of the Act. Aggrieved, the assessee has filed this appeal before the Tribunal.

4. The Ld. A.R. submitted that even though, the assessee has furnished details of exempt income in schedule BP, yet it has failed to report the same in schedule EI, which is the schedule prescribed in the return of income for reporting exempt income. Hence the exemption has been denied by CPC while processing return u/s 143(1) of the Act. The Ld. A.R. submitted that the dividend income is not taxable under the Act and hence, the exemption could not have been denied by the CPC. She further submitted that the error has occurred on inadvertence omission or due to ignorance while filling the return of income. Accordingly she submitted that the same cannot be used to deny the exemption to the assessee. The Ld. A.R.

further relied on the following decisions to contend that the assessee should be allowed exemption claimed by it even though the same was not reported in schedule EI:

a) Suman Chandra G. Mehta Vs. ITO (ITA No.564/Mum/2012 dated 24.1.2015).

b) ACIT Vs. Rupam Impex (2016) 66 Taxman.com 181 (Raj.)

The Ld. A.R. submitted that the Ld. CIT(A) was not correct in observing that the assessee has not responded to the deficiency pointed out by the CPC inviting our attention to page No.118 of the paper book, wherein copy of response given by the assessee is placed. The Ld. A.R. submitted that the assessee has duly responded to the discrepancy pointed out by the CPC but the same has not been taken into account while issuing intimation u/s 143(1) of the Act.

5. On the contrary, the Ld. D.R. submitted that the assessee has not reported the details of exempt income in "Schedule EI", without which the CPC could not grant exemption claimed by the assessee. Accordingly, he supported the order passed by Ld. CIT(A).

6. I heard the rival contentions and perused the record. I noticed that the assessee has mentioned that the dividend income of Rs.13.37 lakhs is exempt in "Schedule BP" relating to computation of business income. However, the details of exempt income were mentioned in the schedule EI of the return of income. In view of the same, the CPC has not granted exemption to the assessee. The question that arises is whether the inadvertent error committed by the assessee while filling up the return of income filed through electronic mode would be fatal and would disentitle the assessee from exemption, which is otherwise allowable as per the provisions of the Act. An identical issue was examined by the Mumbai bench of Tribunal in the case of Suman Chandra G. Mehta (supra). Following

observations made by the Tribunal in the above said case are relevant here:

“4. When this matter was agitated before the Ld. CIT(A), the CIT(A) was of the opinion that it was a incorrect claim on account of the assessee, failing to reflect the correct details in the return of income, as per computerized processing programme, the A.O. has rightly made adjustments for this incorrect claim for deduction and held that there is no mistake in the processing of return and further concluded that no appeal lies against such processing where adjustments have been correctly made during processing as per Sec.143(1)(a)(ii) of the Act.

.....

7. The present case is a perfect example of such ignorance. The assessee has shown interest income earned as well as interest paid under the head “income from other sources”. Not realizing the negative figure is not accepted by the server and therefore the interest paid shown as Rs.2,33,535/- was rejected by the server while processing the return.

8. No doubt the CBDT has the powers to frame the rules but, at the same time, it cannot benefit from the ignorance of the taxpayers using the latest technology. We do not find any reason why such error should not be rectified by the AA.O. This is not ignorance of law but ignorance of the usage of the latest technology.

9. Therefore in the interest of justice and fair play to the taxpayer, we restore this issue back to the files of A.O. The A.O. is directed to examine the claim of the assessee of interest paid at Rs.2,33,535/- and if satisfied with the claim, the A.O. is directed to deduct the same from the positive interest figure of Rs.3,38,345/- meaning thereby that only Rs.1,04,810/- should be added to the taxable income.

10. Before parting, a similar issue came up for hearing before the Tribunal in the case of Srikant Real Estate Pvt. Ltd. 140 ITD 155 wherein one of us (AM) is the author of the decision where also the Tribunal has taken a similar view and directed the A.O. to rectify the error. Drawing support from the findings given in the aforesaid case, this appeal is also restored back to the files of the A.O. with the above direction.”

7. The facts in the present case are identical. The assessee, out of ignorance or inadvertence has omitted to mention the details of exempt income in the relevant “Schedule EI”. So, the ignorance of the assessee or inadvertent mistake committed by the assessee

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should not come in his way in claiming exemption, which is otherwise allowable under the Act. It is also not a case that the assessee did not respond to the notice issued by CPC. The assessee has duly responded to the same, but it is the submission of revenue that the assessee should have filed a revised return of income. There is no dispute with regard to the fact that the assessee is entitled for exemption of dividend income. The object of assessment is to determine correct total income of the assessee. Accordingly, I am of the view that the right of the assessee could not be denied merely on accounting of technical errors. Hence there is a mistake apparent from record in not granting exemption claimed by the assessee. Accordingly, I am of the view that the said mistake deserves to be rectified.

8. Accordingly, I set aside the order passed by Ld. CIT(A) on this issue and direct the A.O. to allow the exemption claimed by the assessee.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 15th Apr'21

Sd/-
(B.R. Baskaran)
Accountant Member

Bangalore,
Dated 15th Apr, 2021.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore