IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT)
"SMC" BENCH, MUMBAI

BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER

ITA NO. 4679/MUM/2019 (A.Y: 2017-18)

Bai Avabai Framji Petit Parsi Girls Orphanage Mehta Building, 47, Nagindas Master Road Mumbai - 400023 **PAN: AAATB3983D**	*v.*	Dy. CIT Central Processing Center Bangalore - 560500
(Appellant)		**(Respondent)**

Assessee by	**:**	**Shri Niraj Sheth**
Department by	**:**	**Smita Verma**
Date of Hearing	**:**	**02.07.2021**
Date of Pronouncement	**:**	**03.08.2021**

O R D E R

PER C.N. PRASAD (JM)

1. This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-1, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 16.05.2019 for the Assessment Year 2017-18.

2. Assessee has raised following grounds in its appeal: -

> **"***1:1 The Commissioner of Income-tax (Appeals) [CIT(A)] has erred in dismissing the appeal on the ground that until the details /*

documents are received from the Assessing Officer he as the CIT(A) cannot give any relief - refer detailed statement of facts as ***"Appendix - 1"*** *to the grounds of appeal.*

1:2 The Appellant submits that considering the facts and circumstances of the case and the law prevailing on the subject the Commissioner of Income-tax (Appeals) ought not to have dismissed the appeal.

1:3 The Appellant submits that considering the facts and circumstances of the case the Commissioner of Income-tax (Appeals) ought to have adjudicated the case on merits and issued appropriate directions to the CPC-Bangalore / Assessing Officer to mandatorily intimate the Appellant in terms of first proviso to section 143(l)(a) of the Income-tax Act, 1961 about any adjustment to the total income, delete the adjustments made, if any, and remit the resultant refund alongwith interest u/s. 244A of the Income-tax Act, 1961.

2:0 Re.: <u>Awarding of Costs</u>

2:1 The Appellant submits that considering the facts and circumstances of its case and the law prevailing on the subject it is entitled to costs as laid down in section 254 (2B) which should not only include the appeal filing fees before the Income-tax Appellate Tribunal but also the professional / legal fees incurred/to be incurred by the Appellant in the matter."

3. Learned Counsel for the assessee before me submitted as under: -.

"1. The Appellant is a Trust registered u/s. 12A and its income is computed in accordance with the provisions of section 11 to 13 of the Income-tax Act, 1961.

2. The Appellant has filed its return of income for the year under consideration on 26 October 2017 declaring its income of Rs. Nil - a copy of the statement showing computation of income alongwith the Income-tax return Form in ITR 7 is attached herewith - refer ***"Appendix-A".***

3. The said return of income was processed in terms of the impugned Intimation dated 27 February 2018 issued u/s 143(1) of the Income-tax Act, 1961 which was electronically received by the Appellant on 06 March 2018 - refer ***"Appendix-B".***

4. While processing the return income u/s. 143(1) of the Income-tax Act, 1961, the Deputy Commissioner of Income-tax (CPC), Bangalore ['CPC Bangalore] has:

a. erroneously neither considered the income nor the deduction in terms of sections 11 and 12 of Income-tax Act, 1961;

b. not set off the brought forward unabsorbed deficit of the earlier year amounting

to Rs. 10,94,603/-;

c. not even granted credit for tax deducted at source amounting to Rs. 75,928/; and consequentially, no interest u/s. 244A of the Income-tax Act, 1961 was granted.

5. The Appellant, therefore, was not intimated as to why or what any adjustment was carried out by the CPC, Bangalore.

In terms of the first proviso to section 143(1)(a) of the Income-tax Act, 1961, it is mandatorily required to intimate an assessee for any adjustment to be made either in writing / electronically.

6. Pursuant to the Intimation u/s. 143(1) of the Income-tax Act, 1961 received from CPC Bangalore, the Appellant had filed an online rectification application [bearing request id No. 5089837472] on 22 March 2018 for re-processing the return of income for the year under consideration- refer ***"Appendix-C".***

7. Simultaneously, a rectification application dated 20 March 2018 in paper form was also filed in the office of the jurisdictional Assessing Officer on 22 March 2018 - refer ***"Appendix-D".***

8. Also, an appeal was preferred to the Commissioner of Income-tax (Appeals) - 1, Mumbai [^{X}*CIT(A)'] against the aforesaid impugned Intimation dated 27 February 2018 on 02 April 2018 - a copy of Form No. 35 is forwarded herewith - refer* ***"Appendix-E".***

9. Post the filing of the rectification request for re-processing the return of income, the Appellant received an 'Income-tax refund advice" dated 12 October 2018 (refer ***"Appendix-F")*** *in terms of which a sum of Rs. 53,830/- was refunded to it.*

10. However, the Income-tax Computation Form ["ITCF'] in terms of which the said amount of refund has been determined nor the computation of income giving rise to the refund has been sent to the Appellant. Further, since in terms of the return of income filed by the

Appellant, it was entitled to a refund of Rs. 75,930/- plus interest u/s. 244A of the Income-tax Act, 1961 a request was made to the jurisdictional Assessing Officer on 04 February 2019 to provide the Appellant with the ITCF in order to enable it to understand as to how the aforesaid refund has been determined and granted - refer ***"Appendix-G".***

11. In the course of proceedings before the CIT(A), we re-iterated the background and prayed for directions to the CPC/AO for giving the requisite data to the Appellant.

*12. Vide an Order dated 16 May 2019, the CIT(A) dismissed the appeal stating that he cannot direct the Assessing Officer to delete the adjustments and remit the balance refund in absence of any specific item of adjustment - refer "****Appendix-H".***

13. The representative of our tax consultants, once again met the jurisdictional Assessing Officer [Income-tax Officer (Exemption) - Ward 1 (1), Mumbai] on 18 June 2019 in order to gather the details as aforesaid, however, they were informed that since the rectification rights are with CPC Bangalore and have not been transferred to him as the jurisdictional Assessing Officer, no details can be provided by him.

14. In view of the above, the Appellant submitted a grievance application on 18 June 2019 through 'e-nivaran' on the designated website of the Income-tax department-a photocopy of the said application is forwarded herewith ~ refer ***"Appendix-I".***

15. In response thereto, the resolution which has been provided by grievance resolution team was only "that this office is unable to view the Intimation u/s. 143(1) in the system, in order to rectify the same" – refer ***"Appendix-J"."***

4. Ld. Counsel for the assessee submitted that rectification petition filed before the Assessing Officer is disposed off stating that the rectification lies only before the Centralized Processing Center 0and not before the Assessing Officer. Ld. Counsel for the assessee submits that direction may be given to the Assessing Officer to dispose off the

rectification petition as the Assessing Officer has the power to dispose off the rectification petition.

5. Ld. DR objecting the submissions made by the assessee stated that it is the Centralized Processing Center which can rectify the petitions and therefore assessee is at liberty to approach Centralized Processing Center.

6. On hearing rival contentions, I am of the considered view that Assessing Officer has ample power to dispose off the rectification petition on merits. Thus, Assessing Officer shall dispose off the rectification petition filed by the assessee on merits expeditiously. Thus, I direct the Assessing Officer to consider the submissions of the assessee and dispose off the rectification petition expeditiously.

7. In the result, appeal of the assessee is disposed off with the above directions.

Order pronounced on 03.08.2021 as per Rule 34(4) of ITAT Rules by placing the pronouncement list in the notice board.

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER
Mumbai / Dated 03/08/2021
Giridhar, Sr.PS

Copy of the Order forwarded to:

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

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum