

आयकर अपीलिय अधिकरण  
मुंबई पीठ "सी"  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री ओम प्रकाश कांत , लक्षा सदस्य का समक्ष  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "C", MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER  
आअसं. 1999/मुं/2020 (नि. व. 2015-16)  
ITA NO.1999/MUM/2020(A.Y.2015-16)

Chandulal Nanavati Womens  
Institute and Girls High School,  
Vallabhai Road, Vile Parle (West),  
Mumbai 400 056

PAN: AAATS-2863-F

..... अपीलार्थी /Appellant

बनाम Vs.

Dy.Commissioner of Income-tax(Exemptions),  
Circle -2, Piramal Chambers,  
Parel, Mumbai 400 013

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Anil Sathe

प्रतिवादी द्वारा/Respondent by : Shri Anand Mohan

सुनवाई की तिथि/ Date of hearing : 17/01/2022

घोषणा की तिथि/ Date of pronouncement : 17/01/2022

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax(Appeals) -1, Mumbai [ in short 'the CIT(A) ] dated 18/03/2020 for the assessment year 2015-16.

2. Shri Anil Sathe appearing on behalf of the assessee submitted at the outset that the assessee is a Charitable Trust registered under section 12A of

the Income Tax Act, 1961 ( in short 'the Act') for the past several years. The assessee has been consistently allowed benefit of exemption under section 11 of the Act . While filing return of income for the assessment year under appeal, the assessee inadvertently failed to furnish Audit Report in Form 10B along with the return. The return of the assessee was processed under section 143(1) of the Act denying benefit of section 11 of the Act to the assessee, thus addition of Rs.10,14,94,430/- was made. The assessee filed appeal before the CIT(A) against the intimation under section 143(1) of the Act dated 29/03/2017. Along with the appeal assessee filed Audit Report in Form-10B. However, the CIT(A) rejected the contentions of the assessee and confirmed the addition. The Id.Authorized Representative of the assessee submitted that the assessee inadvertently failed to upload Audit Report in the prescribed form along with return of income. The Audit Report was available even at the time of filing of return of income . The assessee has been receiving the benefit of exemption under section 11 of the Act in the past and even in the assessment years subsequent to assessment year 2015-16. It was only on account of inadvertent mistake in not uploading Form-10B along with return of income the benefit of section 11 has been denied to the assessee in assessment year 2015-16. The Id.Authorized Representative for the assessee further submitted that no opportunity of hearing was granted to the assessee at the time of making addition. The Id.Authorized Representative for the assessee prayed that if an opportunity is granted, assessee would be able to substantiate assessee's eligibility to claim the benefit of exemption under section 11 of the Act.

3. On the other hand, Shri Anand Mohan representing the Department vehemently defended the impugned order. The Id.Departmental Representative submitted that the assessee has failed to furnish Audit Report in Form 10B along with return of income. For claiming benefit of exemption under section 11 of the Act it is mandatory to furnish Audit Report in the prescribed format along with return of income. The Id.Departmental Representative further submitted that for any reason if assessee failed to furnish Audit Report along with return of income, the assessee could have rectified the defect by filing revised return.

4. We have heard the submissions made by rival sides and have examined the orders of authorities below. The solitary issue in the present appeal is denial of exemption under section 11 of the Act. The assessee is a Charitable Trust registered under section 12A of the Act. While filing return of income for the assessment year 2015-16, purportedly, the assessee failed to upload Audit Report. The return of assessee was processed by Central Processing Centre and intimation under section 143(1) of the Act was served on the assessee denying the benefit of exemption under section 11 of the Act, consequently addition of Rs.10,14,94,430/ was made. In our considered view, before making addition, an opportunity of hearing should have been given to the assessee. Taking into consideration entire facts of the case the impugned order is quashed and the matter is restored to the file of Assessing Officer for denovo assessment after considering the Audit Report and other relevant documents furnished by the assessee before the CIT(A), and after affording opportunity of hearing, in accordance with law. In the result, the impugned

order is quashed and the appeal by assessee is allowed for statistical purpose in the terms aforesaid.

Order pronounced in the open court on Monday the 17<sup>th</sup> day of January, 2022.

Sd/-

( OM PRAKASH KANT )

लखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई/ Mumbai, दिनांक/Dated 17/01/2022

Vm, Sr. PS(O/S)

**प्रतिलिपि अग्रेषित**Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)

**ITAT, Mumbai**