

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

**Before Dr. B.R.R. Kumar, Accountant Member  
&  
Sh. Yogesh Kumar U.S., Judicial Member**

**ITA No.247/DDN/2017  
Assessment Year: 2011-12**

Jaycees Public School C/o. M/s. RRA Tax India D-28, South Extension, Part-1 New Delhi	Vs	ITO (Exemptions) Dehradun
(APPELLANT)		(RESPONDENT)
<b>PAN No. AAAAJ2776K</b>		

**Assessee by : Dr. Rakesh Gupta, Adv and Sh. Shrey Jain Adv  
Revenue by : Sh. N. C. Upadhyay, Sr. DR**

<b>Date of Hearing: 29.04.2022</b>	<b>Date of Pronouncement: 29.04.2022</b>
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**ORDER**

**Per Yogesh Kumar U.S., Accountant Member:**

This appeal has been filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), Dehradun dated 06/09/2016 for the Assessment Year 2011-12.

2. Brief facts of the case are that, the return of income was filed on 29/09/2011 declaring total income of Rs. 'NIL'. Subsequently, the case was selected for scrutiny u/s 148 of the Act. Accordingly, notice u/s 148 was issued on

15/09/2014 by the ITO as application u/s 10 (23C) (vi) moved by the assessee was rejected by the Ld. CCIT, Dehradun vide dated 23/08/2015. During the assessment proceedings, the representative of the assessee has represented the assessee. The assessee society engaged in educational activities but not produced registration certificate issue u/s 12AA of the Act. Therefore, assessment was completed in the status of AOP, the assessee declared total receipt of Rs. 3,50,91,525/- and claimed expenditure of Rs.3,01,42,243/-. The excess of Rs. 49,282/- has been taxed since the assessee has not having any exemption certificate and an addition of Rs.49,49,282/- has been made on the said ground and a sum of Rs.1,09,257/- has been made on account of unverifiable expenses. As against the assessment order dated 24/06/2015. The assessee has preferred an appeal before the CIT(A), the Ld.CIT(A) partly allowed by deleting addition of Rs.1,09,257/- on account unverifiable expenses but sustained the addition of Rs. 49,49,282/- made on account of excess of income over expenditure.

3. Aggrieved by the order dated 06/09/2016, the assessee has preferred the present appeal on following grounds:-

1. *“That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in framing the impugned reassessment order u/s 148/143(3) and that too without assuming jurisdiction as per law and without complying the mandatory conditions of Section 147 to 151 of the Income Tax Act, 1961.*
  2. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in framing the impugned reassessment order u/s 148/143(3), is bad in law and against the facts and circumstances of the case.*
  3. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in taxing the surplus of 'RsA9,A9,2%2l- as income of the appellant, more so when assessee has fulfilled all the conditions u/s 11/12 of the Act.*
  4. *That in any case and any view of the matter, action of Ld. CIT(A) in not reversing the action of Ld. A.O in taxing the surplus of Rs. 49,49,282/- as income of the appellant, more so when assessee has fulfilled all the conditions u/s 11/12, is bad in law and against the facts and circumstances of the case.*
  5. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not allowing the benefit of exemption u/s 11/12 as claimed by the assessee.”*
4. Ld. Counsel for the assessee submitted that the assessee Society registered u/s 12A of the Act vide order dated 04/07/2012, the Commissioner of Income Tax,

Haldwani has cancelled the registration of the society and by passing order u/s 12AA(3) of the I.T Act. As against the said order of cancellation dated 04/07/2012, the assessee has preferred an appeal before the Tribunal in ITA No. 4554/Del/2012 and other connected appeals wherein the Coordinate Bench of this Tribunal directed the Ld. CIT to restore the registration granted to the assessee Trust u/s 12AA of the Act. Therefore, in our considered opinion, if the matter is restored to the file of the A.O with a direction to give the exemption consequent to the restoration of registration granted to the assessee trust u/s 12AA of the Income Tax Act, the substantial justice would be rendered. Accordingly, we allow the grounds of appeal with a direction to the assessee to produce the certificate issued u/s 12AA of the Act and same will be considered by the A.O and give exemption in accordance with law. Accordingly, appeal is allowed for statistical purpose.

6. In result, the appeal filed by the assessee is allowed for statistical purpose.

**Order Pronounced in the Open Court on 29/04/2022.**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 29/04/2022**

*\*R. N. Sr. PS\**

Sd/-

**(YOGESH KUMAR U.S.)**  
**Judicial Member**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**

**ITAT, NEW DELHI**