

THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" Bench, Mumbai  
Shri Shamim Yahya (AM)

I.T.A. No. 1574/Mum/2021 (A.Y. 2014-15)

Sarvojanin Kali Puja Committee (Andhri) Ground Floor, Sanskriti Malpa Dongri No. 3 Mahakali Caves Road Andheri East Mumbai-400 093.  PAN : AACTS9838C (Appellant)	Vs.	CIT(A) National Faceless Appeal Centre Delhi  (Respondent)
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Assessee by	Shri Ajay R. Singh
Department by	Shri Pravin Salunkhe
Date of Hearing	30.03.2022
Date of Pronouncement	29.04.2022

ORDER

This appeal by the assessee is directed against the order of learned CIT(A) dated 9.7.2021 pertains to A.Y. 2014-15.

2. The grounds of appeal read as under :

Confirming the computation of tax at Rs. 68,688/- being 30% of the determined income of Rs. 2,28,960/- instead of Rs. 2896/- being worked out on slab basis as the appellant being a charitable trust:

1. On the facts and in the circumstances of the case, the Learned Commissioner of Income Tax (Appeals,) National Faceless Appeal Centre - erred in confirming the intimation order u/s. 154 passed by ACIT (CPC), Bangalore computing tax of Rs.68,688/- being 30% of the determined income of Rs.2,28,960/- which ought to have been considered and calculated on slab basis. The appellant being a charitable trust registered u/s 12AA and is thereby liable to tax at normal slabs as applicable to individuals.

2. The learned CIT (A) grossly erred in passing ex-parte order and ignoring your appellant's submissions on 10.08.2020 vide acknowledgement number 10082013375792 (duly reflected in e-portal) made in response to CIT (A) notice no. ITBA/APL/F/APL-1/2020-21/1027637994(1) dated 10.08.2020.

3. The learned CIT (A) erred in concluding that "in this case applicability of income reported under head other sources income is not known".

3. Brief facts of the case are that the assessee is a Charitable Trust registered u/s. 12AA, accordingly it files return of income regularly. The assessee filed its return of income for AY 2014-15 declaring net taxable income Rs. 2,28,960/-. The Centralized Processing Centre has issued intimation u/s. 143(1) by accepting the said net taxable income at Rs. 2,28,960/-. As per the assessee since the assessee is registered charitable trust, tax rate applicable would be slab rate applicable to individual. Hence as per the assessee as per applicable slab rate, the tax payable on income of Rs. 2,28,960/- works out at Rs. 2,896/- (Being first Rs. 2,00,000 exempt and balance Rs. 28,960 taxable @10%). However, while determining tax payable thereon CPC worked out tax payable Rs. 68,688/- being flat rate of 30% on Rs. 2,28,960/-. Assessee applied rectification under section 154. The same was rejected by CPC.

4. Upon assessee's appeal the NFAC held as under :-

"Exemption under section 11 r.w.s. 12 is granted subject to the conditions mentioned therein. In this case applicability of income reported under head other sources income is not known. No. evidence has been provided by appellant to substantiate his contention. Under the circumstances, no intervention is called for. Appeal is dismissed".

5. Against the above order assessee is in appeal before us.

6. I have heard both the parties and perused the record. Upon careful consideration, I note that the issue before learned CIT was application of tax rates. Instead he has travelled on a different track and passed a non reasoned order. On the facts and circumstances of the case I deem it appropriate to remit the issue to the Assessing Officer to compute correct tax by a speaking order. The issue is hence remitted to the file of the Assessing Officer.

7. In the result, assessee's appeal is allowed for statistical purposes.

Order pronounced in the open court on 29.04.2022.

Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Mumbai; Dated : 29/04/2022

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

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