

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

BEFORE SHRI SANJAY ARORA, HON'BLE ACCOUNTANT MEMBER &  
SHRI MANOMOHAN DAS, HON'BLE JUDICIAL MEMBER

I.T.A. No. 49/JAB/2022  
(Asst. Year: 2018-19)

Dada Dulhadev Maharaj Mandir Lok Nyas Samiti, Narsinghpur (M.P.)  [PAN : AACTD 2334 A] (Appellant)	vs.	Income Tax Officer Exemption Ward-1(3), Jabalpur.  (Respondent)
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Appellant by : Shri Neeraj Agrawal, FCA  
Respondent by : Shri Ravi Mehrotra Sr.DR

Date of hearing : 25/08/2022  
Date of pronouncement : 26/08/2022

**ORDER**

Per Sanjay Arora, AM:

This is an Appeal by the Assessee agitating the dismissal of it's appeal contesting it's Intimation under section 143(1) of the Income Tax Act, 1961 ('the Act', hereinafter) dated 08/02/2020 for the Assessment Year (AY) 2018-19 by the Central Processing Unit (CPC), Bengaluru, by the National Faceless Appeal Centre Delhi ('CIT (A)' for short) vide it's order dated 22/04/2022.

2. The brief, admitted facts of the case are that the assessee, a religious and charitable trust, running a temple at Narsinghpur, MP, filed it's return of income for the relevant year on 16/03/2019 at nil income, claiming, against a gross receipt (including corpus donation of Rs. 22.96 lacs) of Rs. 30.97 lacs, the following, aggregating to Rs. 30.97 lacs:

a) Expenditure and application of income: Rs. 6,78,967

b) Amount applied on capital account : Rs. 24,18,020

Both these adjustment were, however, disallowed u/s. 143(1). The assessee's case being unrepresented before the first appellate authority despite notices of hearing being sent on e-mail Id provided for the purpose by the assessee, the Id. CIT(A) confirmed the income processed vide the impugned Intimation, i.e., Rs. 30.97 lacs. Aggrieved, the assessee is in second appeal, raising Grounds, both on non-allowance of proper opportunity as well as on quantum, i.e., the merits of the adjustments made.

3. We have heard the parties, and perused the material on record.

3.1 The assessee's grievance *qua* denial of opportunity of being heard – a basic postulate of adjudication, by the Id. CIT(A), is untenable in the facts and circumstances of the case inasmuch as sufficient opportunity was allowed, viz. on 24/8/2021, 24/12/2021, 17/01/2022, 14/03/2022 and, finally, on 25/03/2021, with the last notice clearly indicating it to be a final opportunity. On each of these dates, either no representation was made or adjournment sought, and which was allowed. The Id. CIT(A), thus, cannot be faulted with for proceeding *ex parte* the assessee-appellant. True, it was u/s. 250 (6) of the Act obliged to pass a speaking order, adjudicating on merits on the basis of the material on record. So however, admittedly, no documents were filed by the assessee along with its return of income, being by law not required to. There was thus no material on record which could be perused and adjustment/s impugned before it examined from the standpoint of its validity in law or otherwise by the first appellate authority. The said authority cannot therefore be faulted on this score as well, i.e., confirming the impugned Intimation on the ground of non-representation upon having allowed sufficient opportunity for representation/hearing.

3.2 We, next, examine the assessee's case on merits, which boils down to the validity of the adjustment/s made per the impugned Intimation, the scope of which is very limited, being, in the context of the instant case, *qua*:

- a). any arithmetical error in the return; or
- b). an incorrect claim apparent from the information in the return; or
- c). disallow expenditure indicated in the audit report but not taken into account in computing the total income per the return.

3.3 The assessee, before us, does not dispute the adoption of the income at Rs. 30.97 lacs, i.e., as returned, stated to be the aggregate of gross receipt, both on revenue and capital account, being at Rs. 8,57,090 and Rs. 22,95,833 respectively. The two, however, total to Rs. 31,52,923, and not to Rs. 30,96,987, as returned and, further, adopted in the Intimation. Sh. Agrawal could not explain the said difference. And neither as to why should the gross income be reported in the return of income even as Col. 3 thereof speaks of income and not of receipt. Also, in that case, the return would bear a separate column for expenditure. Be that as it may, even if the expenditure of Rs. 4,17,577 (including depreciation for Rs. 2,13,335), i.e., as per the Income & Expenditure A/c, which is to be deducted from the gross receipt, is deducted therefrom, the income works to Rs. 27,35,346. This, then, in our view, is the correct income liable to be reported under column 3 of the return of income inasmuch as income, by definition, is only net of expenditure there-against which, as afore-stated, is at Rs. 4.18 lacs as per the Income & Expenditure Account. The assessee's accounts being audited, there is nothing to doubt the same nor any scope for disallowance thereof. Further, the assessee being not registered u/s. 12A of the Act, it is not entitled to any exemption either u/s. 11 or s. 12 of the Act. No other infirmity in the processing of income vide the impugned Intimation stands pointed out by Sh. Agrawal before us. The assessee's income is accordingly liable to be processed at Rs. 27,35,346 instead of at Rs. 30,96,987.

3.4 Before parting with this order, we may clarify that we have for the purpose relied on the audited final accounts of the assessee, furnished along with the appeal papers and, thus, forming part of the Tribunal's record, and on the basis of which it claims to have filed the return of income for the relevant year. The same form an integral part of the return of income (sec. 139(9)), even as due to electronic filing the same were not required to and, thus, not attached therewith.

3.5 We decide accordingly.

4. In the result, the assessee's appeal is partly allowed.

*Order pronounced in the open Court on August 26, 2022*

Sd/-  
(Manomohan Das)  
Judicial Member

Sd/-  
(Sanjay Arora)  
Accountant Member

Dated: 26/08/2022

Copy to:

1. The Appellant: Dada Dulhadev Maharaj Mandir Lok Nyas Samiti, Dokharghat Narsinghpur (MP) - 487001
2. The Respondent: Income Tax Officer, Exemption Ward- 1(3) Jabalpur.
3. Principal CIT, Jabalpur
4. CIT(Apeals)-1, Jabalpur (MP)
5. The Sr. D.R., ITAT, Jabalpur.
6. Guard File.

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