

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "B", BANGALORE**

Before Shri Chandra Poojari, AM & Shri George George K, JM

ITA No.410/Bang/2022 : Asst.Year 2017-2018

ITA No.411/Bang/2022 : Asst.Year 2017-2018

M/s.Microland Foundation 1B, Eco Space, Outer Ring Road Bellandur Bangalore – 560 103. PAN : AAETM4469K.	v.	The Income Tax Officer (Exemptions) Ward – 2, Bangalore.
(Appellant)		(Respondent)

Appellant by : --- None ---

Respondent by : Sri.K.R.Narayana, Addl.CIT-DR

Date of Hearing : 01.09.2022	Date of Pronouncement : 01.09.2022
-------------------------------------	---

ORDER

Per George George K, JM :

These appeals at the instance of the assessee are directed against two orders of the CIT(A) dated 22.03.2022 and 23.03.2022. The orders of the CIT(A) arise out of intimation passed u/s 143(1) of the I.T.Act and order passed u/s 143(3) of the I.T.Act. The relevant assessment year is 2017-2018.

2. Common issue is raised in these appeals, hence, they were heard together and are being disposed of by this consolidated order. We shall first adjudicate ITA No.410/Bang/2022.

ITA No.410/Bang/2022

3. The brief facts of the case are as follows:

The assessee is a public charitable trust. For the assessment year 2017-2018, the return of income was filed on 31.10.2017. Subsequently a revised return was filed on 29.11.2017 declaring total income of Rs.46,31,670. During the relevant assessment year, the assessee had accumulated income amounting to Rs.93,50,000 and had claimed as exempt u/s 11(2) of the I.T.Act.

4. The assessment order was passed u/s 143(3) of the I.T.Act on 18.12.2019 making an addition of Rs.93,50,000 by disallowing the claim of exemption u/s 11(2) of the I.T.Act. The A.O. disallowed the exemption u/s 11(2) of the I.T.Act for the reason that Form No.10 was not filed within the due date prescribed u/s 139(1) of the I.T. Act. The A.O. observed that the failure to do so attracts the provisions of section 13(9) of the I.T.Act, and hence, the benefit of accumulation of income u/s 11(2) of the I.T.Act cannot be granted to the assessee.

5. Aggrieved, the assessee filed an appeal before the first appellate authority. The CIT(A) confirmed the view taken by the Assessing Officer. However, the CIT(A) noticed that the assessee had filed condonation application (for condoning the delay in filing Form 10) before the Commissioner of Income-tax (Exemption) and the same is pending. Consequently, the CIT(A) directed the A.O. to grant the benefit of exemption u/s

11(2) of the I.T.Act, if the delay in filing Form No.10 is condoned by the CIT(Exemption).

6. Aggrieved by the order of the CIT(A), the assessee has filed the present appeal before the Tribunal. The assessee has filed a petition for adjourning the matter. However, we reject the same, since no valid reasons were given in the adjournment application. We, therefore, proceed to dispose of the appeals on merits after hearing the learned DR. The learned DR submitted that the assessee has filed a condonation petition before the CIT(Exemption) and the same is pending. It was submitted that in the event the delay in filing Form No.10 is condoned by the CIT(Exemption), then the necessary corollary is for grant of benefit u/s 11(2) of the I.T.Act.

7. We have heard the learned DR and perused the material on record. As rightly pointed out by the learned DR, the assessee has filed condonation petition for condoning the delay in filing Form No.10 before the CIT(Exemption). If the CIT(Exemption) condones the delay in filing Form No.10, necessary benefit of exemption u/s 11(2) will follow. In the event the CIT(Exemption) rejects the assessee's application for condonation of delay, the assessee will be at liberty to file further appeal as against that said order. With these observations, we reject the appeal of the assessee in ITA No.410/Bang/2022.

ITA No.411/Bang/2022

8. Insofar as ITA No.411/Bang/2022 is concerned, the same is arising out of the intimation passed u/s 143(1) of the I.T.Act. Identical addition made u/s 143(1) of the I.T.Act has been subsumed in the order passed u/s 143(3) of the I.T.Act. Therefore, our findings rendered in ITA No.410/Bang/2022 will hold good for this appeal also.

9. In the result, the appeals filed by the assessee are dismissed.

Order pronounced on this 01st day of September, 2022.

Sd/-
(Chandra Poojari)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 01st September, 2022.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-NFAC Delhi
4. The Pr.CIT, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore