

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'C' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.8503/Del./2019
(ASSESSMENT YEAR : 2015-16)**

IECS Limited Employee PF Covered Under FPS, vs. DCIT, CPC,
5, Community Centre, Bangalore.
New Friends Colony,
New Delhi – 110 065.

(PAN : AAATI5611D)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Ms. Deepashree Rao, CA
Ms. Shivangi Jain, CA
REVENUE BY : Shri Anuj Garg, Senior DR

Date of Hearing : 06.09.2022
Date of Order : 08.09.2022

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the assessee is directed against the order of the Id.
CIT (A), Ghaziabad dated 27.08.2019 pertaining to assessment year
2015-16.

2. The grounds of appeal taken by the assessee read as under :-

“1. That the Commissioner of Income tax (Appeals) [‘CIT(A)’] erred on facts and in law in not holding that the impugned intimation dated 27.03.2017, passed under section 143(1) of the Income Tax Act, 1961 (‘the Act’) is beyond jurisdiction and bad in law.

1.1 That the CIT(A) erred on facts and in law in upholding the action of the Centralized Processing Center ('CPC') in denying exemption of Rs.64,36,343 claimed under section 10(25) in the intimation dated 27.03.2017, passed under section 143(1) of the Act.

1.2 That the CIT(A) failed to appreciate that the aforesaid adjustment made by the CPC while processing return of the appellant fell outside the scope of permissible adjustments specified under section 143(1) of the Act.

Without Prejudice

2. That the CIT(A) erred in confirming the action of the CPC in determining total income of the appellant at Rs.64,36,340 as against Nil income declared, after denying benefit of exemption under section 10(25) of the Act.

2.1 That the CIT(A) erred on facts and in law in upholding denial of exemption claimed under section 10(25) on the alleged ground that: (a) the appellant had failed to obtain registration under section 12A/12AA of the Act; and (b) the approval granted to the provident fund trust was not in the name of the appellant.

2.2 That the CIT(A) failed to appreciate that return form ITR-7 was not meant exclusively for institutions registered under section 12A/12AA, but also covered trusts claiming exemption under section 10(25) of the Act.

3. That the CIT (A) erred on facts and in law in confirming levy of interest under sections 234A/234B/234C of the Act.

3. Brief facts of the case are that in this case, CPC Bangalore did not grant exemption u/s 10(25) of the Income-tax Act, 1961 (for short 'the Act') to the assessee as it was not claimed by the assessee in the return of income. Assessee pleaded before Id. CIT (A) that the assessee has

challenged the order u/s 143(1) passed by DCIT-CPC Bangalore contending that exemption u/s 10(25) has been disallowed. It was further stated that according to the assessee, there was no provision in the ITR preferred by the assessee for providing data related to the said claim of exemption, hence there is no mistake, defect or omission in ITR and exemption u/s 10(25) has been disallowed to the appellant by CPC u/s 143(1). However, ld. CIT (A) was not convinced. He referred to the return filed by the assessee and held as under :-

“5.1.2 Provisions of section 143(1) the return is processed based on appellant's to claim. Thus, in absence of any registration u/s 12 the system has correctly processed its return u/s 143(1) based on appellant's contention. Moreover, the copy of approval of PF trust submitted during appellate proceedings is not in the name of appellant but in the name of Indo-Euro Chemical Services limited Employees Provident Fund dated March, 1979. Accordingly, it is held that there is no aberration in the order u/s 143(1). Thus, these grounds of appeal are dismissed.”

4. Against the above order, assessee is in appeal before us.
5. We have heard both the parties and perused the record.
6. Ld. counsel of the assessee submitted that the issue is covered in favour of the assessee by the decision of ITAT in assessee's own case for AY 2014-15 in ITA No.2922/Del/2018 order dated 18.11.2021.
7. Per contra ld. DR for the Revenue did not dispute the same. He only pleaded that Tribunal should give the same decision as in the earlier order.

8. Upon careful consideration, we note that similar issue was decided by the ITAT in assessee's own case for AY 2014-15 (supra) by concluding as under :-

“5. Undisputedly, assessee, IECS Limited Employee Provident Fund covered under FPS is a recognised provident fund u/s 17(1) of the Employees Provident Fund Act, 1952 and duly registered under Rule 3(1) – Part A of Fourth Schedule of the Act vide order no.24(4)/Mrt/Judl/75 dated 03.03.2009. It is also not in dispute that assessee's income is exempted u/s 10(25)(ii) of the Act qua the interest income. It is also not in dispute that for the year under consideration i.e. AY 2014-15, assessee filed return in the abbreviated name i.e. “IECS Ltd. Employees P.F. Covered under FPS” declaring nil income after claiming exemption u/s 10(25)(ii) of the Act.

6. When we examine the impugned order passed by the Id. CIT(A) in the light of the aforesaid undisputed facts, it is apparent on record that denial of exemption u/s 10(25)(ii) of the Act of the assessee from the interest income is solely on the ground of not filing return in the complete name of the assessee i.e. Indo Euro Chemical Services Limited Employees Provident Fund covered under FPS rather filed the return in the abbreviated name as “IECS Ltd. Employees P.F. Covered under FPS”. Moreover, adjustment made by the Revenue Department by denying the exemption claimed by the assessee u/s 10(25)(ii) of the Act cannot be and shall not be subject matter of section 143(1) of the Act. This can only be done u/s 143(3) of the Act. Because u/s 143(1) returned filed by the assessee should be accepted. So, we are of the considered view that when undisputedly assessee has been accorded registration under Rule 3(1) – Part A of the Fourth Schedule of the Act vide order dated 03.03.1979 (supra), there is no scope for the Revenue to deny the exemption claimed u/s 10(25)(ii) of the Act on hyper technical grounds.

7. **Hon'ble Delhi High Court while deciding the identical issue in case of Easter Industries Ltd. vs. UOI 349 ITR 324 (Del.)** held that, *“where it is evident from the return as filed along with the documents in support thereof that a claim of the assessee is inadmissible, only then an adjustment under the said proviso can be made. If proof in support of the claim is not furnished by the assessee, then, for the lack of proof, no disallowance or an adjustment can be made. The only option which is open to the Income-tax Officer in such a case is that he can require the assessee to furnish proof in which case he will presumably have to issue notice u/s 143(2) of the Act.”*

8. In the instant case, it is also undisputed fact that no notice u/s 143(2) of the Act was ever issued to the assessee rather arbitrarily declined to accept the exempt income of Rs.60,88,057/- which was claimed as exempt u/s 10(25)(ii) of the Act by the assessee and the same has been

adjusted against the income of the assessee and assessment has been framed at Rs.60,88,057/- as against nil income claimed by the assessee in its return.

9. So, in view of the matter, we are of the considered view that Id. CIT (A) has erred in dismissing the rectification application filed by the assessee u/s 154 of the Act by denying a relief otherwise available to the assessee u/s 10(25)(ii) of the Act. So, we direct the AO to allow relief to the assessee by allowing exemption u/s 10(25)(ii) of the Act after due verification qua the abbreviated name mentioned by the assessee in its return in the light of the order for according exemption to the assessee vide order dated 03.03.1979 (supra). Resultantly, the appeal filed by the assessee is allowed.”

9. Since it is not disputed that facts are similar, we follow the coordinate Bench decision and direct accordingly.

10. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open court on this 8th day of September, 2022.

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 8th day of September, 2022
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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), Ghaziabad.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**