

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No.98/Chny/2022
निर्धारण वर्ष/Assessment Year: 2016-17

M/s. Expleo Solutions Employees
Group Gratuity Scheme, 6A,
No. 283/3, 283/4, Prince Infocity – II,
Rajiv Gandhi Salai, OMR
Kandanchavadi, Chennai 600 096.
[PAN:AABTT3195L]

Vs. The Deputy Commissioner of
Income Tax, Central Processing
Center, Post Bag No. 2, Electronic City
Post Office, Bangalore 560 500.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

शुद्धिपत्र आदेश /Corrignendum Order

The appeal of the assessee in ITA No.98/Chny/2022 for the assessment year 2016-17 was disposed off by the Division Bench 'B', Chennai Benches, Chennai vide order dated 28.09.2022. The Id. Counsel for the assessee has brought to the notice of the Tribunal that in the Tribunal order the result at Para No. 7 has been inadvertently mentioned as "appeal filed by the assessee is dismissed", whereas, it should have been mentioned as "appeal filed by the assessee is allowed" and prayed to rectify the mistake apparent in the order dated 28.09.2022.

2. On perusal of the Tribunal order, we find that there is an inadvertent typographical mistake in the order at Para No. 7 and it should be read at Para No. 7 "In the result, the appeal filed by the assessee is allowed", without any other modifications in the original order. We order accordingly.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 14.10.2022

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR &
6. गार्ड फाईल/GF.

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(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri M. Viswanathan, CA
 प्रत्यर्थी की ओर से/Respondent by : Shri Hema Bhupal, JCIT
 सुनवाई की तारीख/ Date of hearing : 29.08.2022
 घोषणा की तारीख /Date of Pronouncement : 28.09.2022

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

The appeal filed by the assessee is directed against the order of the
 Id. Commissioner of Income Tax (Appeals), National Faceless Appeal
 Centre (NFAC), New Delhi dated 21.12.2021 relevant to the assessment
 year 2016-17.

2. Facts are, in brief, that the assessee M/s. Expleo Solutions BFSI
 Employees Group Gratuity Trust [Formerly SQS India BFSI Employees'
 Group Gratuity Scheme] was established on 23.07.2002 to manage and

administer the Company's group gratuity scheme. The assessee is an approved gratuity trust under Rule 2(1) of Part 'C' of IV Schedule of the Income-tax Act, 1961 and its income is exempt under section 10(25)(iv). The assessee filed ITR-7 for the assessment year 2016-17 on 27.07.2016 claiming exemption under section 11(1)(c) of ₹.42,43,398/-. The assessee received 143(1) intimation dated 21.02.2018, wherein the exemption claimed was not allowed. The gross total income was determined at ₹.42,43,400/- and a demand of ₹.14,32,911/- was raised.

3. On appeal, it was submitted before the Id. CIT(A) that the assessee trust is an approved gratuity trust under Rule 2(1) of Part 'C' of IV Schedule of the Income Tax Act, 1961 and the income of an approved gratuity trust is exempt under section 10(25)(iv) of the Act. It was further submission that the section 10 talks about incomes not included in total income and clause 25(iv) of section 10 excludes any income received by the trustees on behalf of an approved gratuity fund; shall not be included in computing the total income of a previous year of any person. After considering the explanations of the assessee, the Id. CIT(A) confirmed the order of the Assessing Officer by observing as under:

“6. I have carefully considered the facts of the case, grounds of appeal as well as the written submissions filed by the appellant. As per the appellant, it is an approved Gratuity Trust under Rule 2(1) of Part C of Schedule 4 of the Act and its income is exempt u/s 10(25)(iv) of the Act. The appellant had filed its return of Income for A.Y. 2016-17 in ITR 7 claiming exemption u/s 11(1)(c) of Rs.42,43,398/-.

While processing the return the exemption u/s 11 was not allowed to the assessee. The rectification application filed was also rejected by the CPC, Bangalore. The appellant has submitted that being an approved Gratuity Fund Trust, its income was exempt u/s 10(25)(iv) and thus it was not statutorily required to file its return of income u/s 139 of the Act and therefore the exemption claimed should have been allowed.

6.1. *I have perused the relevant sections of the Act as well as the circulars cited by the appellant. It is seen that the appellant filed its return of income in ITR 7, claiming exemption u/s 11(1)(c) of the Act. ITR 7 is required to be filed by every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes. The appellant filed ITR 7 without filing the attendant Audit Report and therefore the exemption was correctly disallowed by the AO, CPC during processing the return. It is further seen that the appellant has claimed exemption u/s. 11(1)(c) which was disallowed. Section 11(1)(c) of the Act is reproduced as under-*

“Section 11(1)(c) in The Income- Tax Act, 1995

(c) income derived from property held under trust-

(i) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(ii) for charitable or religious purposes, created before the 1st day of April, 1952 , to the extent to which such income is applied to such purposes outside India: Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income”

Since the appellant was claiming exemption u/s 11(1)(c) of the Act, which is for a specific purpose, and the prescribed Form 10B was not filed along with the return, I see no error in the action of the AO in rejecting the rectification application u/s 154 of the Act filed by the appellant. There is no mistake apparent from record. The action of the AO is therefore upheld and the appeal of the assessee is dismissed.

The Id. CIT(A) has observed that the assessee has filed its return of income in ITR 7 and claimed exemption under section 11(1)(c) of the Act. ITR 7 is required to be filed by every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes. In this

case, the assessee filed ITR 7 and claimed exemption under section 11(1)(c) of the Act, which is for a specific purpose, and the prescribed Form 10B was not filed along with the return. Therefore, the Id. CIT(A) has upheld the denial of exemption claimed under section 11(1)(c) of the Act by the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal. By referring to the grounds of appeal, the Id. Counsel for the assessee prayed for allowing the exemption claimed by the assessee.

5. On the other hand, the Id. DR strongly supported the orders of authorities below.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The case of the assessee is that the assessee trust is an approved gratuity trust under Rule 2(1) of Part 'C' of IV Schedule of the Income Tax Act, 1961 and the income of an approved gratuity trust is exempt under section 10(25)(iv) of the Act and not necessary to file return of income and also any audit report is required to be filed. The authorities below have rejected the exemption claimed under section 11(1)(c) of the Act by the assessee on the ground that the audit report is not filed along with return of income.

We find that the assessee need not file return of income and also any audit report. Therefore, non-filing of audit report and denial of exemption on that count is not justified, where; the assessee is not required to file any return of income itself. The Id. Counsel for the assessee also submitted that in subsequent years, the claim of the assessee was allowed by the Department without insisting any audit report. Under the above facts and circumstances, we are of the opinion that the claim of the assessee under section 11(1)(c) of the Act is to be allowed. Therefore, we direct the Assessing Officer to allow the claim of exemption under section 11(1)(c) of the Act.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on 28th September, 2022 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 28.09.2022

Vm/-

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