

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री वी. दुर्गा राव, माननीय न्यायिक सदस्य एवं
श्री जी. मंजूनाथा, माननीय लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.704/Chny/2022
निर्धारण वर्ष /Assessment Year: 2019-20

M/s.Sri Sowdeswari Mahajana
Charitable Trust,
No.1, Kondalampatti Bye Pass Road,
Kondalampatti, Salem.
[PAN: AAETS 0190 H]
(अपीलार्थी/Appellant)

v. The Asst. Director of-
Income Tax,
Centralized Processing
Centre, Bengaluru.
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mrs.Sree Lakshmi Valli, Adv.
प्रत्यर्थी की ओर से /Respondent by : Mr.K.N.Dhandapani, Addl.CIT
सुनवाई की तारीख/Date of Hearing : 26.09.2022
घोषणा की तारीख /Date of Pronouncement : 14.10.2022

आदेश / ORDER

PER G. MANJUNATHA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 22.06.2022 and pertains to assessment year 2019-20.

2. The assessee has raised the following grounds of appeal:

1. *The order of CIT(A) is wrong, illegal and liable to be quashed.*

2.1 *CIT(A) erred in not adjudicating the grounds of appeal and additional grounds, after noting that the Appellant had actually invested in Fixed assets during the year.*

2.2 *CIT(A) failed to note that the Appellant had applied more than 85% of its income during the year and hence there is no taxable income.*

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2.3 *CIT(A) erred in not considering investments made in Fixed Assets during the year as Application.*

2.4 *CIT(A) failed to use his Appellate powers to decide the Appeal and erred in 4.directing the Appellant to file a revised return of income.*

2.5 *CIT(A) failed to follow the Citizens's Charter which specifies, providing timely decisions, collecting correct amount of tax and reducing cost of compliance.*

2.6 *CIT(A) erred in relying on technicalities, while ignoring that that the eventual destination of every litigation is justice.*

2.7 *CIT(A) having directed the Appellant to file a revised return of income ought to have directed the AO to enable the portal for submission of such revised return or accept manual ROI.*

3. The brief facts of the case are that the assessee is a Trust running Educational Institute in the name of Salem Sri Sowdeswari College. The assessee filed its return of income in Form No.7 for the AY 2019-20 on 21.08.2019 declaring 'nil' income by claiming exemption u/s.11 & 12 of the Act. The AO, CPC, Bengaluru, sent a communication with a proposed adjustment u/s.143(1)(a) of the Act, dated 17.02.2020 asking the assessee to provide required information or file revised return of income, to which, no reply was submitted by the assessee. The AO, CPC issued intimation u/s.143(1)(a) of the Act, dated 18.05.2020 and determined total income at Rs.1,94,42,005/- and denied exemption claimed u/s.11 & 12 of the Act, on the ground that the assessee has not filed correct information in ITR Form. The assessee challenged intimation issued u/s.143(1)(a) of the Act, before the First Appellate Authority. The Ld.CIT(A) vide their order dated 22.06.2022 dismissed the appeal filed by the assessee on the ground that the assessee itself had admitted a mistake in filling up Schedule EC Row

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(3) instead of correct entry to be made at Schedule EC Row (2). Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before us.

4. The Ld.AR for the assessee submitted that the Ld.CIT(A) erred in rejecting appeal filed by the assessee without appreciating the fact that the AO has computed total income on the basis of wrong assumption of facts only for the reason that the assessee has filled amount in wrong column in the return of income filed for the relevant assessment year. However, not denied the fact that the assessee is entitled for exemption u/s.11 & 12 of the Act.

5. The Ld.DR, on the other hand, supporting the order of the Ld.CIT(A), submitted that the AO, CPC will compute income as per information furnished by the assessee and thus, there cannot be any fault from the AO in computing income, because, the assessee has provided information in wrong column.

6. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. Admittedly, the assessee has filled exemption claimed u/s.11 & 12 of the Act, in Schedule EC Row (3) instead of Schedule EC Row (2). Because of said mistake, the AO, CPC denied exemption claimed u/s.11 & 12 of the Act, and determined total income of the assessee at Rs.1,94,42,005/- as against 'nil' income declared by the assessee. The assessee has explained the reasons for filing ITR Form with a wrong info in the Form, as per which, by inadvertent error,

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amount has been filled in Schedule EC Row (3) instead of Schedule EC Row (2). We find that the assessee has explained the reason for filling amount in wrong column and said mistake is on account of human error which we prone to do while filing return of income. Therefore, we are of the considered view that the Ld.CIT(A) ought to have accepted, explanation furnished by the assessee, explaining the reasons for filling the amount in wrong column. Otherwise, the Ld.CIT(A) does not say that the assessee is not entitled for exemption u/s.11 & 12 of the Act. Hence, we set aside the order of the Ld.CIT(A) and restore the issue back to the file of the AO and direct the AO to examine the claim of the assessee and allow the benefit of exemption u/s.11 & 12 of the Act, in accordance with law.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 14th day of October, 2022, in Chennai.

Sd/-

(वी. दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 14th October, 2022.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त (अपील)/CIT(A)

Sd/-

(जी. मंजूनाथा)

(G. MANJUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

4. आयकर आयुक्त/CIT

5. विभागीय प्रतिनिधि/DR

6. गार्ड फाईल/GF