

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H', NEW DELHI**

**BEFORE SH. N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. KUL BHARAT, JUDICIAL MEMBER**

ITA No.503 & 504/Del/2021
Assessment Year: 2017-18 & 2018-19

Friends Charitable Trust H. No.22, Road No. 5, East Punjabi Bagh, New Delhi- 110026 PAN No.AAATF2945F	Associates	Vs	CPC Ward Exempt 1 (1) New Delhi
(APPELLANT)			(RESPONDENT)

Appellant	Sh. Suresh K. Gupta, CA
Respondent	Ms. Shweta Yadav, Sr. DR

Date of hearing:	22/11/2022
Date of Pronouncement:	22/11/2022

ORDER

PER N.K. BILLAIYA, AM:

ITA No. 503/Del/2021 and 504/Del/2021 are two separate appeals by the assessee preferred against two separate orders by NFAC, Delhi dated 04.03.2021 pertaining to A.Y. 2017-18 and 2018-19.

2. Since common grievance is involved in both these appeals they were heard together and disposed of by this common order for the sake of convenience and brevity.

3. With the consent of the parties we are taking the facts of the ITA No.503/Del/2021 for A.Y. 2017-18 as the basis for the adjudication of these appeals.

4. The grievance of the assessee read as under :-

1. *That on the facts and circumstances of the case and in law, the order passed by Prescribed National Faceless Appeal Centre, New Delhi (hereinafter referred to as CIT (A)), is bad in law.*
2. *That on the facts and circumstances of the case and in law the CIT (A) was not justified in upholding the action of AO in disallowing the deduction claimed u/s. 11 (1) (2) of the Income Tax Act of Rs.22,18,306/- on account of amount set apart for the purpose of application in future years by holding that assessee is not entitled for exemption claimed under section 11 (1) (2).*
3. *That on the facts and circumstances of the case and in law the CIT(A) was not justified in upholding the action of the AO in rejecting the claim of assessee on the basis of erroneously interpretation of the provisions of Section 11 (1) (2) of the Act read with Rule 17 (1) which provides that for claiming*

deduction u/s. 11 (1) (2) of the Act report in Form No.9A should be filed alongwith the return of income are mandatory in nature.

- 4. That on the facts and circumstances of the case and in law the CIT(A) was not justified upholding the disallowing of deduction claimed by the assessee ignoring the fact that Form No. 9 A was filed on 20.03.2019 and assessment u/s. 143 (1) was completed on 10.11.2019 i.e. much before the completion of assessment proceedings.*
- 5. That on the facts and circumstances of the case and in law the CIT(A) was not justified and highly arbitrary in contending that power for condone the delay has been granted to CIT(E) only for assessment Year A.Y. 2016-17 and for all subsequent year no such power are available with CIT(E).*
- 6. That the appellant craves leave to add, alter and modify any of the grounds during the course of appellate proceedings.*

5. At the very outset the Counsel for the assessee stated that the only reason for denying the benefit was non filing of Form No.9A before the AO. The Counsel drew our attention to the orders of the CIT (Exemption), New Delhi and pointed out that the CIT (Exemption) has condoned the delay for A.Y.2017-18 and 2018-19.

6. We have carefully perused the order for condonation of delay u/s. 119 (2) (b) of the IT Act by CIT (Exemption) dated 22.11.2021 for A.Y.2017-18 and 2018-19.

7. Since the delay has been condoned, therefore, we restore the appeals to the files of the CIT(A) with a direction to decide the issues afresh on merits of the case and after affording a reasonable and adequate opportunity of being heard to the assessee.

8. In the result, both the appeals are allowed for statistical purpose.

9. Decision announced in the open court on 22.11.2022.

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

NEHA, Sr. Private Secretary

Date:- .11.2022

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI