

**IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH : "DEHRADUN SMC" NEW DELHI ]**

**BEFORE DR. B. R. R. KUMAR, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**I.T.A. No. 137/DDN/2019 (A.Y 2016-17)**

Institute of Driving & Traffic Research 70, Rajpur Road, Dehradun, Uttarakhand <b>PAN No. AAAA12799D</b> <b>(APPELLANT)</b>	Vs.	ITO Ward-Exemption, Dehradun, Uttarakhand <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Shri Anil Jain, Adv</b>
<b>Respondent by</b>	<b>Sh. Mayank Prabha Tomar, Addl. CIT(A)</b>

<b>Date of Hearing</b>	<b>16.12.2022</b>
<b>Date of Pronouncement</b>	<b>03.01.2023</b>

**ORDER**

**PER YOGESH KUMAR U.S., JM**

This appeal is filed by the assessee against the order of the ld. Commissioner of Income Tax (Appeals), Dehradun [hereinafter referred to CIT (Appeals)] dated 24/07/2019 for assessment year 2016-17.

2. The grounds of appeals are as under:-

*“1. The Ld.CIT(A) has erred in confirming the order of A.O. in assessing the total income at Rs. 25,50,000/- as against return filed at the income of NIL.*

*2. The Ld.CIT(A) has erred in confirm in the order of the A.O. by not allowing the deemed application of income to the extent of Rs. 25,50,000/- for not filing of form 10 electronically ignoring the manual filing of the same and also the CBDT circular.*

*3. The order of Ld.CIT(A) is against law and facts of case.”*

3. Brief facts of the case are that, the assessee is a Society registered u/s 12A and 80G of the Act. During the Assessment Year 2016-17 transferred a sum of Rs. 25,50,000/- to utilization fund u/s 11(2) of the Act. The assessee should have filed Form No. 10 as required u/s 13(a) of the Act electronically but the same has been filed manually. Later on, during the assessment proceedings the Form No. 10 has been filed electronically by the assessee. The assessment order came to be passed wherein the Ld. A.O. has not allowed the deemed application of income to the extent of Rs. 25,50,000/- on the ground that the assessee has failed to file Form No. 10 electronically and passed assessment order on 07/12/2018 by making additions of Rs. 25,50,000/-.

4. As against the assessment order dated 07/12/2018, the assessee has preferred an appeal before the CIT(A) and the Ld.CIT(A) vide order dated 24/07/2019, dismissed the appeal filed by the assessee.

5. Aggrieved by the orders of the Lower Authorities, the assessee has preferred the present appeal on the grounds mentioned above.

6. We have heard the parties perused the material available on record and gave our thoughtful consideration.
7. It is not in dispute that the assessee being a Registered Society u/s 12A and 80G of the Act, during the year under consideration transferred a sum of Rs. 25,50,000/- to the utilization of fund u/s 11(2) of the Act . The assessee has not filed Form No. 10 electronically, but fact remains that the assessee has filed the same manually before the due date of filing of return on 06/09/2016 and even during the assessee assessment proceedings, the assessee has filed Form No. 10 electronically.
8. It is not the case of the Revenue that the Form No. 10 has not been filed on time physically, but it is the case of the Revenue that the same has not been filed electronically before the due date. It is relevant to note that the amendment in the law providing for filing Form No. 10 electronically has come into existence w.e.f 01/04/2016, therefore, the assessee must have missed in filing the form No. 10 electronically but the same has been filed on time manually before the due date of filing of return on 06/09/2016, for which the assessee should not be penalized. Keeping the above facts in mind, we deem it fit to remand the matter to the file of A.O. to consider the manual filing of Form No. 10 and online Form No. 10 filed by the assessee during the assessment proceedings electronically as the same has been filed on time and decide the matter in accordance with law.
9. In the result, appeal filed by the assessee is allowed for statistical purpose.

**Order pronounced in the Open Court on : 03.01.2023.**

**Sd/-**  
**(Dr. B. R. R. KUMAR)**  
**ACCOUNTANT MEMBER**  
Dated : 03/01/2023  
*\*R. N, Sr. PS\**

**Sd/-**  
**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Copy forwarded to :

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI