

IN THE INCOME TAX APPELLATE TRIBUNAL

(DELHI BENCH 'G' : NEW DELHI)

**BEFORE SH. N.K.BILLAIYA, ACCOUNTANT MEMBER
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.936/Del/2018, A.Y. 2014-15

M/s. Tirupati Educational & Welfare Trust , 208-A, Saket, Meerut PAN : AAATT9193R	Vs.	Dy. Commissioner of Income Tax(Exemption) Ghaziabad
Appellant		Respondent

Assessee by	Sh. Mayank Patawari, Adv.
Revenue by	Ms. Sangeeta Yadav, Sr. DR

Date of hearing:	16.01.2023
Date of Pronouncement:	18.01.2023

ORDER

Per Anubhav Sharma, JM :

The appeal has been filed by the Assessee against order dated 31.08.2017 in Appeal No. 326/16-17 assessment year 2014-15 passed by Commissioner of Income Tax (appeals), Meerut (hereinafter referred to as the First Appellate Authority or in short 'Ld. F.A.A.')

in regard to the appeal before it arising out of assessment order dated 26/12/2016 u/s 143(3) of the Income Tax Act, 1961 passed by DCIT(Exemption), Circle-Ghaziabad (hereinafter referred to as the Assessing Officer or 'AO').

2. The assessee has raised following grounds :-

“1. The Ld. CIT (Appeals) erred in law and on facts on both while partly allowing the appeal filed by the assessee.

2. The Ld. CIT (Appeals) erred in law and on facts in not considering the written submissions and relevant evidences filed by the assessee during the hearing of appeal in regard of the addition to fees made by the Assessing Officer, by alleging that the assessee college has charged the fees from students beyond the prescribed amount of fees as decided by the Govt. Authorities , and also The Ld. CIT(A) has erred in law for confirming the action of the assessing officer for not allowing the provisions of 12A on this addition .

3. Any other ground of appeal which may be raised during the course of hearing of appeal.

3. Heard and perused the record.

4. Ld. AO has made an addition of Rs. 61,12,643/- by treating the excess fee charged as capitation fee. The assessee has claimed that this alleged capitation fee is with regard to B.ed courses only and for which by virtue of order dated 29.05.2013 of Hon'ble Allahabad High Court in Miscellaneous case no. 3550 of 2013 fee above one determined by the fee committee was accepted. However, the matter of fact is that this order dated 29.05.2013 as produced before this bench was not cited before Ld. AO or Ld. First Appellate Authority. Thus, the end of justice require to restore the issue to the files of Ld. AO to take into consideration the order of Hon'ble High Court and after giving an opportunity of hearing pass a fresh order in the issue.

5. Accordingly, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 18th January, 2023.

Sd/-

(N.K.BILLAIYA)

ACCOUNTANT MEMBER

Date:-18.01.2023

Binita, SR.P.S

Sd/-

(ANUBHAV SHARMA)

JUDICIAL MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI