

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK

श्री जार्ज माथन, न्यायिक सदस्य एवं श्री अरुण खोड़पिया लेखा सदस्य के समक्ष ।

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

AND

SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No.12/CTK/2022

(निर्धारण वर्ष / Assessment Year :2018-2019)

Gram Utthan, At/Po: Pimudi, Rajakanika, Kendrapara-754220	Vs	ACIT, Exemption Circle, Bhubaneswar
PAN No. :AAATU 1223 F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by	:	Shri Sunil Mishra, Advocate
राजस्व की ओर से /Revenue by	:	Shri M.K.Gautam, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	19/01/2023
घोषणा की तारीख/Date of Pronouncement	:	19/01/2023

आदेश / O R D E R

Per Bench :

This is an appeal filed by the assessee against the order of the Id.CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 24.12.2021, passed in DIN & Order No.ITBA/NFAC/S/250/2021-22/1038117110(1) for the assessment year 2018-2019.

2. It was submitted by the Id. AR that the assessee is a charitable trust which has been granted registration u/s.12A of the Act on 19.11.2004 and recognition u/s.80G of the Act on 28.06.2016 w.e.f.23.12.2015. It was the submission that for the impugned assessment year when the assessee filed its return of income in the personal information under the column date of formation/incorporation the assessee had entered the date of creation of the trust in place of the date of registration u/s.12A of the Act. It was the submission that all other information to substantiate its claim of

being a charitable trust including the filing of the Form 10B along with the audit report had been complied with. It was the submission that the return filed by the assessee came to be processed u/s.143(1) of the Act wherein the assessee was not granted the benefit of exemption u/s.11 & 12 of the Act as the date of registration u/s.12A of the Act had been mistakenly/wrongly incorporated to be the date of creation of the assessee trust. It was the submission that when this mistake was noticed the assessee had attempted to file revised return on two occasions but the same were rejected as invalid as the returns were filed beyond the statutory time limit provided. Consequently, the assessee had filed an e-nirvan petition on 28.06.2014 and the same was treated as a rectification application u/s.154 of the Act by the AO and the same came to be disposed off vide an order dated 02.03.2021, wherein the rectification application was rejected on the ground that there is no mistake apparent from the record, which enabled the AO to drop the amount demanded. It was the submission that on appeal, the Id.CIT(A) upheld the rejection made u/s.154 of the Act by the AO. It was the submission that the assessee having been registered u/s.12A of the Act and having been granted recognition u/s.80G of the Act and the assessee having also filed all details in its return as a charitable organization and even having filed the requisite Form 10B along with audit report, the mistake in entering the date of creation of the assessee trust as against the date of registration u/s.12A of the Act was a mistake apparent from the record, which was liable to be rectified. It was the prayer that the AO may be directed to

consider the return filed by the assessee by treating the date mentioned in the personal information in the respect of the date of formation/incorporation as the date of registration of the assessee trust.

3. In reply, Id. CIT-DR vehemently supported the order of the Id. CIT(A) and the AO. It was the submission that this is not a mistake apparent from the record and it is the duty of the assessee to be careful on what is entered in the return, insofar as the same is also verified by him. It was the prayer that the orders of the Id. CIT(A) and AO are liable to be upheld.

4. We have considered the rival submissions. A perusal of the ITR-7 copy of which is filed at page 19 of the paper book, personal information in Part A-General, clearly uses the word date of formation/incorporation. Under the common parlance, this would really mean the date of formation of the trust that the revenue required the date of registration u/s.12A of the Act is not specifically mentioned there. Thus, this should be treated as a mistake. It is also recognized that in the return filed, the assessee has claimed the exemptions u/s.11 & 12 of the Act in the computation of the income filed along with the return. The exemptions have been claimed, the requisite Form 10B along with audit report as required to be filed by charitable institution has also been filed. Thus clearly the wrong mentioning of the date is a mistake apparent from the record, which is rectifiable u/s.154 of the Act. In these circumstances, the AO is directed to pass the necessary rectification order u/s.154 of the Act by treating the

said error in mentioning of the date of registration u/s.12A as a mistake apparent from the record.

5. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 19/01/2023.

Sd/-

(अरुण खोड़पिया)
(ARUN KHODPIA)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

Sd/-

(जार्ज माथन)
(GEORGE MATHAN)

न्यायिक सदस्य / **JUDICIAL MEMBER**

कटक Cuttack; दिनांक Dated 19/01/2023

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कटक** / DR,
ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack