

**IN THE INCOME TAX APPELLATE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD
BEFORE SHRI.VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI. RAMIT KOCHAR, ACCOUNTANT MEMBER**

**ITA No.35/ALLD/2022
Assessment Year: 2017-18**

Society for Welfare and Advancement of Rural Generation (SWARG), Shiv Pur, Dhoomanganj, Allahabad-Uttar Pradesh-211011 PAN-AAEAS1046F	v.	The Dy. CIT, CPC, Bengaluru-560500
(Appellant)		(Respondent)
Assessee by:	None	
Respondent by:	Sh. Rabin Chaudhari, CIT DR	
Date of hearing:	23.02.2023	
Date of pronouncement:	23.02.2023	

ORDER

SHRI VIJAY PAL RAO, J.M.:

This appeal by the assessee is directed against the order dated 19th September, 2022 of CIT(A)(National Faceless Appeal Centre, Delhi) for the assessment year 2017-18.

2. There was a defect in the appeal of the assessee regarding payment of deficient appeal fee as the assessee has paid only Rs. 500/- instead of appeal fee of Rs. 10,000/-. Accordingly, defect notices were issued to the assessee on 08.12.2022 and thereafter on 25.01.2023. Thereafter, it transpires from the record that on 5.1.2023, this Bench has taken note of the defects in the appeal regarding the deficient appeal fee and directed the assessee to make up the deficiency of appeal fee and the matter was adjourned to 23.01.2023. Again, there was no compliance by the assessee regarding the making up of deficiency of appeal fees and the appeal of the

assessee remains defective. The case was adjourned to 1.2.2023 on the request of the assessee for making up the deficiency of appeal fee. But again, on 1.2.2023, nobody appeared on behalf of the assessee nor the defect of deficient appeal fee was removed by the assessee and the matter was again adjourned to 6.2.2023 and thereafter to 23.02.2023 i.e. today. At the time of hearing, nobody appeared on behalf of the assessee nor any application for adjournment or seeking time to remove the defect has been filed by the assessee which shows that the assessee is not sincere and interested in pursuing the appeal and removing the defect regarding the deficient appeal fee. As per the provisions of section 253(6)(c) of the Income Tax Act, if the total income of the assessee computed is more than Rs. 2 Lakh then assessee is required to pay an appeal fee equivalent to 1% of the assessed income subject to maximum of Rs. 10,000/-. In the case in hand, the income of the assessee has been assessed at Rs. 1,98,18,885/- as stated in the impugned order of the CIT(A) in para 2 as under:-

"The appellant filed its return of income for the AY 2017-18 on 29.09.2017 by declaring total income as Nil. The same was processed u/s 143(1) on 27.03.2019 by determining the total income at Rs. 1,98,18,885/- and demand of Rs. 88,08,106/- was raised. Aggrieved from above order the appellant prefer to appeal before the CIT(A) with the below mentioned grounds:

(i) Because the Ld Dy. CIT has erred in law and on facts in passing the order under section 143(1) of the without proper appreciation of actual facts law as stated in the submission filed online in response to notice under section 143(1) of the Act.

(ii) Because the impugned order/intimation under section 143(1) dated 27.03.2019 stands vitiated as the proceeding under section 143(3) was initiated by issuance of notice under section 143(2) dated 21.08.2018 by the Ld. ITO(Exemption) Allahabad.

(iii) Because the reply dated 23.12.2018 filed by the appellant along with notice dated 21.08.2018 under section 143(2), online, fully cover the objection raised in the proceeding under section 143(1) which makes the impugned appeal order bad in law and illegal.

(iv) Because the proceedings under section 143(2) will supersede the intimation/order under section 143(1), therefore the impugned order dated 27.03.2019 is bad in law and against spirit of law and natural justice.

(v) Because the order under section 143(1) of the Income Tax Act, 1961 is against the principal of law and natural justice which deserves to be quashed at this stage itself.

(vi) Because in relation to the grounds of appeal taken herein above the appellant specifically refer and rely upon the statement of facts filed along with the memo of the appeal itself.

(vii) Because the appellant disputes the levy of interest u/s 234B and 234C independent of quantum of assessment.

(viii) Because the appellant disputes the levy of interest u/s 234B and 234C independent of quantum of assessment. (viii) Because the order appeal against is contrary to the facts, law and principles of natural justice."

3. Therefore, the assessee was required to pay the appeal fee of Rs. 10,000/- as per section 253(6)(c) of the Income Tax Act but despite repeated defect notices issued to the assessee as per the directions of this Bench, neither the assessee has made up the deficiency of appeal fee nor any reply is filed. Accordingly, we are of the opinion that the assessee is not willing to remove the defect regarding the deficient appeal fee and consequently the appeal of the assessee is treated as not a valid appeal and liable to be dismissed in *limine*. We order accordingly.

4. In the interest of justice, the assessee is given opportunity to make up the deficient appeal fee and get this appeal revived by filing a misc. application, subject to limitation.

5. In the result, the appeal of the assessee is dismissed being not a valid appeal.

Order pronounced in open court on 23.02.2023 at Allahabad, U.P. and the same is reduced in writing and signed on the date indicated below.

Sd/-
[RAMIT KOCHAR]
ACCOUNTANT MEMBER

Dated: 24/02/2023

Allahabad

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Copy forwarded to:

1. Appellant-Society for Welfare and Advancement of Rural Generation (SWARG)2.
- Respondent-Dy. CIT, CPC, Bengaluru
3. CIT(A)-
4. CIT
5. DR

Sd/-
[VIJAY PAL RAO]
JUDICIAL MEMBER

By order
Sr. P.S.