

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, CHENNAI
श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT
AND SHRI G.MANJUNATHA, ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A.No.19/Chny/2023

(निर्धारणवर्ष / Assessment Year: 2019-20)

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| SAM Women Upliftment Trust, 5/3, Periamalaiappan Street, Royapettah, Chennai-600 014. | Vs | The ADIT., Centralized Processing Center, Bengaluru. |
| PAN: AAKTS 1966 R | | |
| (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

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| अपीलार्थीकीओरसे/ Appellant by | : | Mr. J.Sermakani, F.C.A |
| प्रत्यर्थीकीओरसे/Respondent by | : | Mr. P.Sajit Kumar, JCIT |

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|-------------------------------------|---|------------|
| सुनवाईकीतारीख/Date of hearing | : | 30.03.2023 |
| घोषणाकीतारीख /Date of Pronouncement | : | 30.03.2023 |

आदेश / ORDER

PER MAHAVIR SINGH, VP:

This appeal by the assessee is arising out of order passed by the Commissioner of Income Tax(Appeals), National Faceless Appeal Centre (NFAC), Delhi vide appeal No. ITBA/NFAC/S/250/2022-23 / 1047329993(1) dated 15.11.2022. The assessment was completed by the ADIT., CPC., Bengaluru, for the relevant assessment year 2019-20 and issued intimation u/s.143(1) of the Income Tax Act, 1961 (hereinafter "the Act") vide order dated 30.10.2020.

2. The only issue in this appeal of the assessee is as regards to order of the CIT(A) confirming action of the Assessing Officer in disallowing exemption claimed u/s.11 of the Act, the assessee being charitable trust.

3. We have heard rival contentions and gone through facts & circumstances of the case. Brief facts of the case are that the assessee is a charitable trust registered u/s 12A of the Income Tax Act, 1961. The assessee filed its return of income on 04.09.2019 but submitted Form No. 10B on 05.09.2019. While processing the return of income, the AO omitted to consider the income applied during the year for charitable purpose and accumulation of 15 per cent of the total income. The ADIT., CPC issued an order u/s 154 of the Act on 30.10.2020 has disallowed exemption claimed by the assessee u/s.11 of the Act in the absence of audit report.

4. Admittedly, the assessee filed return of income for the relevant assessment year 2019-20 on 04.09.2019 and filed audit report in Form No.10B on 05.09.2019 i.e., a day after

filing of return of income. We noted that the CBDT has issued circular No. 2/2020 dated 03.01.2020, wherein vide para 4(ii) the Board has given power to admit belated application filed in Form No.10B or for subsequent assessment years as per para 5, which read as under:-

“4. Accordingly,

(i)

(ii) In all other cases of belated applications in filing Form No. 10B for years prior to AY. 2018-19, The commissioner of Income-tax are authorized to admit and dispose off by 31-3-2020 such applications for condonation of delay u/s 119(2)(b) of the Act. The Commissioner will while entertaining such belated applications in filing Form No. 10B shall satisfy themselves that the assessee was prevented by reasonable cause from filing such application within the stipulated time.

5. In addition to the above, it has also been decided by the CBDT that where there is delay of upto 365 days in filing Form No. 10B for Assessment Year 2018-19 or for any subsequent Assessment Years, the Commissioners of Income-tax are hereby authorized to admit such belated applications of condonation of delay under section 119(2) of the IT Act and decide on merits.”

5. We noted that there is delay of only one day and that also as claimed by the assessee due to technical glitches in the system, delay has occurred. Having considered there being

reasonable cause, we condone delay in filing Form No.10B and direct the Assessing Officer to allow application of income u/s.11 of the Act and accordingly, deduction is to be allowed. We direct the Assessing Officer accordingly.

6. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 30th March, 2023

Sd/-
(जी. मंजुनाथ)
(G.Manjunatha)
लेखा सदस्य / Accountant Member
चेन्नई/Chennai,
दिनांक/Date: 30.03.2023
DS

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष/ Vice-President

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. Appellant
2. Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.