

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : C : DELHI

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITA No.954/Del/2021
Assessment Year: 2016-17

DCIT,
Central Circle-27,
New Delhi.

Vs Gian Sagar Educational &
Charitable Trust,
Ram Nagar, Banur,
Patiala,
Punjab – 140 601.

PAN: AAATG5827B

(Applicant)

(Respondent)

Assessee by : Shri Ravi Pratap Mall, Advocate
Revenue by : Shri Anuj Garg, Sr. DR

Date of Hearing : 03.05.2023
Date of Pronouncement : 10.05.2023

ORDER

PER M. BALAGANESH, AM:

This appeal in ITA No.954/Del/2021 for AY 2016-17 arises out of the order of the Commissioner of Income Tax (Appeals)-29, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No.187/2018-19 dated 17.02.2021 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 28.12.2018 by the Id. Assessing Officer, Central Circle 27, Delhi (hereinafter referred to as 'Id. AO').

2. The Revenue has raised the following grounds of appeal:-

- “1. That on the facts and in the circumstances of the case, the Ld. CIT (A) has erred in law and on facts in deleting the addition made on account of disallowance of deduction claimed u/s 11(1)(a)/11(1)(b) amounting to Rs.2,84,33,532/-.
2. That on the facts and in the circumstances of the case the Ld. CIT(a) has erred in law and on facts in deleting the addition made amounting to Rs.25,57,389/-
3. That the order of the CIT (A) is perverse, erroneous and is not tenable on facts and in law.
4. That the grounds of appeal are without prejudice to each other.
5. That the appellant craves leave to add, amend, alter or forgo any ground(s) of appeal either before or at the time of hearing of the appeal.”

3. The assessee is a charitable trust running educational institutions besides 500 bedded hospital in Ram Nagar (Banur), Punjab. The return of income for the AY 2015-16 was filed by the assessee trust on 17.10.2016 declaring total income at Rs.Nil. The assessee was duly registered u/s 12AA of the Act on 02.04.2005 and also was granted approval u/s 80G of the Act on 07.05.2007. The assessee claimed exemption u/s 11 of the Act while filing its return of income. However, the Id. Pr. Commissioner of Income-tax, vide an order dated 01.03.2016, withdrew the registration granted to the assessee u/s 12AA of the Act. Based on this, the Id. AO held that the exemption claimed by the assessee u/s 11 of the Act by way of application of income for charitable purposes could not be granted to the assessee and made an addition of Rs.2,84,33,532/- in the assessment.

4. Further, the Id. AO observed that on perusal of ledger account of housekeeping and maintenance expenses, there were certain cash payments made in the sum of Rs.79,92,183/- and, hence, the same was also disallowed u/s 40A(3) of the Act.

5. The assessee submitted that against the cancellation of registration u/s 12AA of the Act by the Id. Pr. Commissioner of Income-tax, it preferred an appeal before this Tribunal and this Tribunal, by its order in *ITA No.6054/Del/2018, dated 03.09.2020*, had reversed the order of the Id. PCIT and restored the registration granted to the assessee u/s 12AA of the Act. The Id.CIT(A), by placing reliance on the same, had consequentially held that the assessee is entitled for exemption u/s 11(1)(a) and 11(1)(b) of the Act and deleted the addition made by the Id. AO in the sum of Rs.2,84,33,532/-. We do not find any infirmity in the said order of the Id.CIT(A) qua this issue. Accordingly, ground No.1 raised by the Revenue is dismissed.

6. With regard to deletion of addition amounting to Rs.25,57,389/-, the assessee submitted before the Id.CIT(A) that this amount was collected as fees belonging to earlier years and by mistake was booked as income during the year under consideration which was later on reversed by the assessee. The assessee furnished the complete supporting and documentary evidence in respect of the same. This was sought to be examined by the Id. AO in the remand proceedings. The Id. AO, in the remand report dated 04.02.2020, stated that the assessee had not submitted the reconciliation of entries to prove that this income was booked twice. The Id.CIT(A), however, from the perusal of the bank statement and ledger account of the educational activity, found that income of Rs.25,57,389/- was duly received by the assessee in FY 2014-15, relevant to AY 2015-16 and was also booked as income therein. The Id. CIT(A) further observed that the assessee had again booked the very same income of Rs.25,57,389/- in AY 2016-17 also and then had debited the amount after realizing that the said income was booked twice. On these facts, the Id.CIT(A) deleted the addition made in the sum of Rs.25,57,389/-. This factual finding has not been controverted by the Revenue before us. Hence, we do not find any infirmity in the order of the Id.CIT(A) granting relief to the assessee qua this issue. Accordingly, ground No.2 raised by the Revenue is dismissed.

7. The ground Nos.3, 4 and 5 raised by the Revenue are general in nature and does not require any specific adjudication.

8. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 10.05.2023.

Sd/-

(SAKTIJIT DEY)
JUDICIAL MEMBER

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 10th May, 2023.

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1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi