

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND SHRI GEORGE GEORGE K, JUDICIAL MEMBER**

ITA No.289/Bang/2023
Assessment Year : 2016-17

M/s. Agastya International Foundation, #101, 1 <sup>st</sup> Floor, Varsav Plaza, 12 Jayamahal Main Road, Bengaluru – 560 046. <b>PAN : AAATA 3882 C</b>	Vs.	The Assistant Commissioner of Income Tax (Exemptions), Circle - 1, Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Suman Lunkar, CA
Revenue by	:	Shri. Gudimella VP Pavan Kumar, JCIT (DR)(ITAT), Bengaluru.

Date of hearing	:	31.05.2023
Date of Pronouncement	:	31.05.2023

**ORDER**

*Per George George K, Judicial Member:*

This appeal at the instance of the assessee is directed against order of CIT(A), dated 22.11.2021, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2016-17.

2. There is a delay in filing the appeal. The appeal ought to have been filed on or before 21.01.2022. However, the same has been filed only on 10.04.2023. Assessee has filed a petition for condonation of delay and also an affidavit of the Managing Trustee of the assessee trust stating the reasons for belated filing of the appeal. The reasons stated for belated filing of the appeal is that the assessee, in order to buy peace, was thinking of not filing appeal as against the

disallowance made. However, subsequently, when penalty order under section 271(1)(c) of the Act was served on assessee (levying penalty of Rs.7,090/-), the assessee was advised to file an appeal before the Tribunal. It is stated that the penalty order under section 271(1)(c) of the Act was served on assessee on 23.03.2023 and assessee immediately filed this appeal on 10.04.2023. We are of the view that there is “reasonable cause” in filing this appeal belatedly and no laches can be attributed to the assessee. Hence, we condone the delay in filing this appeal and proceed to dispose off the appeal on merits.

3. Brief facts of the case are as follows:

Assessee is a charitable trust registered under section 12A of the Act, w.e.f. 02.04.1999. Assessee has also got registration under FCRA. For the Assessment Year 2016-17, return of income was filed on 16.10.2016 declaring Nil income, after claiming exemption under section 11 of the Act. Subsequently, a revised return was filed on 31.03.2018 declaring ‘Nil’ income (the revised return was filed since there was change in corpus donations). The assessment was selected for scrutiny and notice under section 143(2) of the Act was issued on 08.08.2018 which was duly served on the assessee trust. Assessment under section 143(3) of the Act was completed vide order dated 25.12.2018 by making disallowance of expenditure incurred on foreign travel amounting to Rs.3,18,866/-.

4. Aggrieved, assessee filed an appeal before the First Appellate Authority (FAA). The CIT(A) confirmed the view of the AO. The finding of the CIT(A) reads as follows:

“5. *I have considered the submission made before me by the appellant. Though it is claimed that the expenses incurred on foreign travel by the Chairman and Chief Operating Officer of the Trust should be construed as*

*being application of income for the purposes of the Trust. I am unable to see how this is so. The provisions of Sec. 11 of the I. T. Act are very clear that only that income which is applied for such purposes as the Trust is for. shall be allowable as exempt. The appellant has failed to prove, or to give any conclusive evidence as to how foreign travel expenses incurred outside India can be considered as having been applied for purposes here. A chart showing FCRA donations has been produced before me. but that does not help the appellant's case. as no correction is drawn between expenses incurred with those.*

*5.1 The case laws relied upon by the appellant are also on different footing. Unless it is proved that any expense is an application of income for purposes of the Trust, I do not see how they can be allowed as exempt. Hence, the amount of Rs. 3,18,866/- has been correctly disallowed by the AO. and I see no reason to interfere with his order.”*

5. Aggrieved by the order of the CIT(A), assessee has filed the present appeal before the Tribunal. Assessee has filed a Paper Book enclosing therein the written submissions filed before the FAA, a chart showing details of the foreign travel expenses, FCRA received for the relevant Assessment Year, case laws relied on, etc. The learned AR reiterated the submissions made before the AO and the CIT(A). The learned DR supported the order of the AO and CIT(A).

6. We have heard the rival submissions and perused the material on record. The main objects of the assessee trust are as follows:

- a) To promote, establish, associate, maintain, run, develop, support, adopt, improve, extend, grant, donate for and extension of educational institutions technical, medical management, industrial, agricultural or otherwise including schools, Centres, colleges workshops etc.,
- b) To adopt / foster rural schools / institutions and. aid, provide or upgrade the infrastructure and / or other facilities, teaching methods, teaching aids etc.

- c) To give scholarships, fellowships, stipends, loans awards, prizes, subsidies, books, grants, aids, free residence etc., for the purpose of study, research and apprenticeship,
- d) To make contributions or render aid, assistance financially or otherwise for relief activities / operations in the event of any natural calamities.

7. Assessee's contention is expenditure incurred on foreign travel was to obtain donations from the donors who were abroad. The details of the FCRA receipts for the relevant Assessment Year are placed on record at Pages 35 to 39 of the Paper Book submitted by the assessee. Assessee has received substantial portions of donations from abroad. The donations received include from agencies such as Silicon Valley Foundation, Global Giving, etc. The chart showing the details of the foreign travel expenditure incurred along with the purpose is enclosed. The details of the donations received and utilization of the same is also enclosed in the records. We are of the view on the facts of the instance case, the expenditure incurred amounting Rs.3,18,866/- was for obtaining the donations from the various donors who were stationed abroad and the utilization of the donation was also for the objects of the Trust.

8. In this context, we rely on the following judicial pronouncements :

- i) **In Ohio University Christ College v. Commissioner of Income Tax reported in [2018] 408 ITR 352 (Karnataka), the Hon'ble court held as under :-**

*"It is also not disputed that the services had been rendered by the faculty members from Ohio University as the classes were taken in Bangalore. The services had been utilized for the purposes of the trust's objectives in India, viz., of imparting higher education in India. Ohio University has also offered the income earned by it from the assessee trust to tax in India. In the light of the above mentioned facts, it was clear that the activities of the assessee - trust were conducted in India in accordance with its objects.*

*As regards the payments being made of out India, we concur with the view of the learned CIT(Appeals) that merely because the payments were made outside India, it could not be said that the charitable activities were also conducted outside the country."*

**ii) In Gem and Jewellery Export Promotion Council P. ITO, reported in 68 ITD 95 (Mum), the Mumbai Bench of the Tribunal held as under**

*"33. A bare reading of the sub-s. i 1(1)(a) does not leave us in doubt that the requirement under s. 11 is for application of income for purposes in India and it does not restrict the application of income within the territory of India. The charitable purpose for which the income should be applied for claiming exemption under s. 11(1)(a) should be in India. In this case, it is not disputed that the Trade Delegation had been sent abroad for the benefit of the entire trade in India. The exports are made from India and the purpose for sending the Delegation was to increase the possibilities of exports out of India. We accordingly hold that since the assessee has applied the income for charitable purposes in India, the mere fact that the expenditure has been incurred out of India, does not disqualify the expenditure from exemption under s. 11(1)(a)."*

**iii) In The Institute of Chartered Accountants of India v. DDIT (Delhi) ITA No. 1853/De1/201, Delhi Bench of ITAT held as under :**

*"17. "It is quite clear from the above provisions that there is no such condition as being stated by the DIT(Exemption) in Section 10(23C)(iv). Furthermore, Section 11(1)(c) is applicable only with reference to those trusts which are claiming exemption u/s 11, and it is not applicable to exemption u/s 10(23C)(iv). Due clarification was given to the DIT(Exemption) during the course of proceedings u/s 263 as stated above. However, the objection raised by the DIT(Exemption) with regard to CBDT permission is applicable when any expenditure is incurred which tends to promote international welfare. However, the institute does not have any welfare nor any expenditure has been incurred for that purpose. However, the expenditure has been incurred on overseas travel etc.*

*which was for the purpose of its object. Mere fact that expenditure has been incurred on foreign travel will not mean that institute has incurred such expenses for purposes which are not for India.*

*18. After going through various provisions under the Chartered Accountants Act, we found that institute has obligation u/s 15(2)(j) of the Chartered Accountants Act 1949 to maintain status and standard of professional qualification of chartered accountancy and for that purpose, it is necessary to observe developments taking place in the world. The expenditure so incurred would be for the purpose in India and not international welfare as alleged by the DIT(Exemption). Furthermore, since the assessee was claiming exemption u/s 10(23C)(iv), where there is no such condition, thus DIT(Exemption) otherwise was also not justified in invoking Section 11(1)(C) of the Act. As per our considered view, whether it is exemption u/s 10(23C)(iv) or exemption u/s 11, overseas expenses will not come in the way of allowing exemption."*

**iv) The Bangalore bench of ITAT has, in the case of Sri. Bhagawan Mahavir Jain Education Trust on a identical issue has held as under :-**

*"We have considered the rival submissions. As we have already seen under the provision of sec. 11(1)(a) of the Act exemption is allowed only to the extent income of charitable trust is applied to such purpose in India. The Hon'ble Karnataka High Court dealing with an identical situation held that when teaching services were rendered to assessee educational trust by faculty members of foreign university and when such services were utilized for the purpose of trust objective of imparting education in India payment made to foreign university towards faculty teaching charges was allowable as deduction. We are therefore of the view that in the light of the decision of the Hon'ble Karnataka High Court the deduction claimed should be allowed. It cannot be said that the assessee has not applied the income for charitable purposes outside India as beneficiaries of the education imparted outside India where the assessee's students. Accordingly, the relevant grounds of appeal for the assessee are allowed."*

9. In view of the aforesaid reasoning and the judicial pronouncements cited supra, we hold that since the donations received are utilized for charitable

purpose which is never doubted by the AO, the foreign travel expenses incurred for obtaining the above said donations is to be allowed as an expenditure. It is ordered accordingly.

10. In the result, appeal filed by the assessee is allowed.

*Pronounced in the open court on the date mentioned on the caption page.*

Sd/-

**(CHANDRA POOJARI)**  
**Accountant Member**

Sd/-

**(GEORGE GEORGE K)**  
**Judicial Member**

Bangalore.

Dated: 31.05.2023.

/NS/\*

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|-------------------------|---------------|
| 1. Appellants           | 2. Respondent |
| 3. CIT                  | 4. CIT(A)     |
| 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,  
ITAT, Bangalore.