

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.723/PUN/2022
निर्धारण वर्ष / Assessment Year : 2019-20

Khatoon Minority Women Soc., 534, MHB Colony, Hazar Kholi, Malegaon, Nashik- 423203. PAN : AAATK7419B	Vs.	DCIT, Exemption Circle, Aurangabad.
Appellant		Respondent

Assessee by : Shri Sanket M. Joshi
Revenue by : Shri Keyur Patel

Date of hearing : 30.05.2023
Date of pronouncement : 02.06.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 13.07.2022 for the assessment year 2019-20.

2. Briefly, the facts of the case are that the appellant is a public charitable trust registered under the Bombay Public Trust Act, 1950.

The appellant trust was also registered under the provisions of section 12A of the Income Tax Act, 1961 ('the Act') on 03.05.2006. The appellant trust is engaged in rendering services in the field of education. The Return of Income for the assessment year 2019-20 was filed on 30.09.2019 declaring Rs.Nil income after claiming exemption u/s 11 of the Act. The said return of income was processed u/s 143(1) of the Act vide intimation dated 26.03.2021 in respect of entire gross receipts of income of Rs.9,61,94,922/- denied the exemption u/s 11 on the ground that as per the details furnished in the return of income, the appellant trust was not registered u/s 12A of the Act nor had the assessee filed the prescribed audit report in Form No.10B along with the return of income.

3. Being aggrieved by the intimation, a rectification petition was filed by the appellant trust u/s 143(1) pointing out that the appellant trust is registered u/s 12A of the Act. The appellant trust also brought to the notice of the CPC that the Form No.10B was filed and petition to condone the delay in filing of Form No.10B is also filed before the Pr. CIT, Exemption, Pune.

4. Being aggrieved by the intimation, an appeal was filed before the NFAC, who vide impugned order confirmed the action of the CPC.

5. Being aggrieved, the appellant is in appeal before us in the present appeal.

6. Before us a preliminary issue was raised that the appellant trust was not issued intimation of the proposed adjustment as provided under proviso to section 143(1) of the Act. This fact was not disputed by the ld. CIT-DR stating that the intimation of the proposed adjustment could not be issued due to some technical issue. Thus, it is an admitted position that no prior intimation has been issued before making the prima-facie adjustment. There is a blatant violation of principles of natural justice as well as the mandatory procedure prescribed u/s 143(1) of the Act. In view of the above, we hereby set-aside the intimation u/s 143(1) and the matter is remanded to the CPC, who shall issue a fresh intimation about proposed adjustment and thereafter process the return of income u/s 143(1) of the Act in accordance with law.

7. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced on this 02nd day of June, 2023.

Sd/-
(S. S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 02nd June, 2023.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Nashik.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.