

आयकर अपीलीय अधिकरण
मुंबई पीठ "डी", मुंबई पीठ
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री गगन गोयल, लेखाकार सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER
आअसं.1052/मुं/ 2023 (नि.व.2015-16)
ITA NO. 1052/MUM/2023(A.Y. 2015-16)

Dnyandeep Seva Mandal,
Karave, Navi Mumbai
Post Nerul, Navi Mumbai
Thane – 400 706
PAN: AAATA-9786-H

..... अपीलार्थी /Appellant

बनाम Vs.

National Faceless Appeal Centre,
Delhi.

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Sudhir M. Bhoir
प्रतिवादी द्वारा/Respondent by : Smt. Mahita Nair, Sr. AR
सुनवाई की तिथि/ Date of hearing : 22/06/2023
घोषणा की तिथि/ Date of pronouncement : 22/06/2023

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 03/02/2023, for the Assessment Year 2015-16.

2. The facts of the case in brief are: The assessee is a charitable trust engaged in running educational institutions. It is pertinent to mention here that the assessee is NOT registered u/s. 12A/12AA of the Income Tax Act,

1961 [in short 'the Act']. The assessee did not file return of income for the impugned assessment year. On the basis of information available on ITBA Portal notice u/s. 148 of the Act dated 25/03/2019 was issued and served on the assessee. The assessee failed to appear before the Assessing Officer despite repeated notices u/s. 142(1) of the Act . Since, there was no response from the assessee, the Assessing Officer was constrained to complete the assessment u/s. 144 of the Act. The Assessing Officer made addition of the entire gross receipts Rs.67,10,765/- and the fund received by the assessee towards building fund Rs.1,50,900/-. Aggrieved by the assessment order dated 17/12/2019 passed u/s. 144 r.w.s. 147 of the Act, the assessee filed appeal before the CIT(A).

3. The First Appellate Authority issued notices to the assessee on the e-mail address as proved in Form -35. Five notices were issued to the assessee. The assessee failed to respond to any of the notices. The CIT(A) upheld the findings of the Assessing Officer and dismissed the appeal of assessee. Hence, the present appeal.

4. We have heard the submissions made by rival sides and have examined orders of authorities below. The assessee has failed to appear before the Assessing Officer and the CIT(A) despite several notices. The Assessing Officer was constrained to complete the assessment invoking provisions of section 144 of the Act. The CIT(A) also passed the impugned order in an ex-parte proceedings. Looking at the conduct of assessee, it is a fit case for levy of costs. However, keeping in view the fact that assessee is a charitable institution and is purportedly engaged in running an educational institution

we restrain ourselves from imposing costs. Taking into consideration entire facts, we deem it appropriate to relegate the assessee to the Assessing Officer. The Assessing Officer shall frame fresh assessment after affording reasonable opportunity of hearing/ to make submissions to the assessee, in accordance with law. The assessee is directed to respond to the notice served by the Assessing Officer, without fail. In case the assessee fails to respond to the notice(s), the Assessing Officer is at liberty to take an adverse view and complete the assessment.

5. In the result, the impugned order is set-aside and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Thursday the 22nd day of June, 2023.

Sd/-

(GAGAN GOYAL)

लेखाकार सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 22/06/2023

Vm, Sr. PS(O/S)

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
- 4.. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

//True Copy//

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

BY ORDER,

(Dy./Asstt. Registrar), ITAT, Mumbai