

आयकर अपीलिय अधिकरण, 'बी' (एस एम सी) न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' (SMC) BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपील सं./ITA No.: **377/CHNY/2023**
निर्धारण वर्ष/Assessment Year: 2018-19

**M/s. Sri Palaniappa
Charitable,**
101/10, Steel Plant Road,
Mallamoopampatty,
Salem – 636 302.

The Income Tax Officer,
Vs. National e-Assessment
Centre,
Delhi.

PAN: AADTS 7815G
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri S. Sridhar, Advocate
: Shri D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing : 20.06.2023
घोषणा की तारीख/Date of Pronouncement : 23.06.2023

आदेश /ORDER

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Appeal No.NFAC/2017-18/10080818 dated 06.02.2023. The assessment was framed by the Addl/Joint /Deputy/Asst. Commissioner of Income Tax/Income-tax Officer, National e-Assessment Centre, Delhi for the assessment year 2018-19 u/s.144 r.w.s. 143 r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 19.02.2021.

2. At the outset, the Id.counsel for the assessee has not pursued the following Ground No.2 and hence, the same is dismissed as 'not-pressed'.

2. The learned CIT(A) erred in not considering the submissions filed by the appellant in proper perspective, besides not duly considering the decision by the SC reported in 329 CTR 137 with respect to "Activities Incidental to the main objects of the Trust".

3. The next issue on merits is as regards to the order of CIT(A) confirming the action of the AO in disallowing the claim of exemption on surplus income of Rs.3,19,173/- and taxing the total taxable income at Rs.3,55,373/- in regard to bus fee, uniform fee and interest etc. For this, assessee has raised following Ground No.3

3. While the gross receipts of the appellant for the impugned year was Rs.64,59,206/- consisting of term fees, book fees, bus fees, uniform fees and interest, term fees works out to 75 percent, while other receipts for activities incidental to the main object of the appellant trust, being education works out to 25 percent, the learned CIT(A) erred in not considering the same.

4. I have heard rival contentions and gone through facts and circumstances of the case. The assessee trust is a charitable trust claiming exemption u/s.11 of the Act. Admittedly, the assessee's trust was granted registration u/s.12AA of the Act by the CIT(E), Chennai vide UR No.AADTS7815G/05/16-17/T-0971 dated 17.08.2018. The main objects of the assessee trust as per the replies furnished and trust deed provided are to run and establish

educational institution. The AO during the course of assessment proceedings noticed that the assessee has declared gross receipts on account of main object of the trust at Rs.48,11,650/- and a sum of Rs.16,03,040/- as receipts from incidental objects. The AO has not touched the receipts from main object of the trust i.e., education but he has not allowed the claim of exemption u/s.11 of the Act on the receipts from incidental objects i.e., Rs.16,03,040/- and accordingly, surplus arising out of the same was assessed as income of the trust by denying exemption and by computing the income as under:-

Aggregate Income reflected	:	Rs.64,59,206/-
Amount applied during the year	:	Rs.61,40,033/-
Surplus Income	:	Rs.3,19,173/-
Income from House Property	:	Rs.46,200/-
Total Taxable Income	:	Rs.3,65,373/-

Aggrieved, assessee preferred appeal before the CIT(A).

5. The CIT(A) also confirmed the action of the AO by following the recent decision of Hon'ble Supreme Court in the case of New Noble Educational Society vs. CIT [2022] 143 taxmann.com 276 and by stating that providing uniforms, books or transport services to the students by the assessee trust are not its main objects and these been commercial in nature, he confirmed the action of the AO in assessing the surplus income from such activities, amounting to Rs.3,19,173/-. Aggrieved, now assessee is in appeal before me.

6. After hearing both sides and going through the case records, I noticed that this issue is squarely covered by the decision of Hon'ble Supreme Court in the case of New Noble Educational Society, *supra*, and AO has rightly assessed the incidental business receipts i.e., for providing books, uniforms and bus, i.e., net / surplus of Rs.3,19,173/-, I find no infirmity in the order of the AO or CIT(A) and hence, this issue of assessee's appeal is dismissed.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 23rd June, 2023 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated, the 23rd June, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|-------------------------|--------------------------|---------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त /CIT |
| 4. विभागीय प्रतिनिधि/DR | 5. गार्ड फाईल/GF. | |