

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.409/Bang/2023
Assessment Year: 2016-17

M/s. Chitradurga Urban Development Authority No.01, Near AIR Kelagote Chitradurga 577 501  <b>PAN NO : AAALC0135A</b>	<b>Vs.</b>	Deputy Commissioner of Income-tax (Exemption) Circle-1 Mangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri Sandeep Chalapathy, A.R.
<b>Respondent by</b>	:	Shri Suash K.R., D.R.

<b>Date of Hearing</b>	:	05.07.2023
<b>Date of Pronouncement</b>	:	05.07.2023

**O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal is directed against order of NFAC passed u/s 250 of the Income-tax Act,1961 [‘the Act’ for short] for the assessment year 2016-17 dated 22.3.2023. The assessee has raised following grounds of appeal:

- 1. That the order of the learned Commissioner of Income-tax (Appeals) in so far it is prejudicial-to the interests of the appellant is bad and erroneous in law and against the facts and circumstances of the case.*
- 2. That the learned Commissioner of Income-tax (Appeals) erred in law and on facts in deciding the appeal ex-parte on the ground that the appellant did not respond to the hearing notices.*
- 3. That the learned Commissioner of Income-tax (Appeals) erred in law and on facts in not appreciating the fact that the faceless appeal*

Page 2 of 4

*scheme was newly introduced and therefore, the appellant was not aware of the procedure that all the hearing notices will be issued only to the assessee's registered email ID and therefore, could not file all the responses.*

4. *That the learned Commissioner of Income-tax (Appeals) erred in law and on facts in not considering the fact that the appellant responded to the notice u/s 142(1) of the Act providing the requested details by the learned assessing officer and not grossly negligent without taking any action to the above said notice issued.*
  5. *That the learned Commissioner of Income-tax (Appeals) ought to have disposed off the appeal on merits.*
  6. *That the learned Commissioner of Income-tax (Appeals) erred in law and on facts in denying the exemption u/s.11 of the Act even though the appellant is eligible for claiming the exemption.*
  7. *That the learned Commissioner of Income-tax (Appeals) erred in law and on facts in law and facts in delaying the exemption u/s.11 of the Act by assuming that proviso to Sec.2(15) of the Act is applicable to the appellant.*
  8. *That the learned Commissioner of Income-tax (Appeals) erred in law and on facts in holding that the proviso to Sec.2(15) of the Act is applicable to the appellant.*
  9. *That the learned Commissioner of Income-tax (Appeals) erred in law and on facts by treating the activities carried out by the appellant are in the nature of trade and commerce and not of charitable nature.*
2. At the time of hearing, the ld. A.R. made submission on ground No.2 that the NFAC has given notices of hearing to the assessee as follows:

Date of notice	Date of hearing fixed	Remarks
01.01.2021	05.02.2021	No reply
21.10.2021	05.11.2021	No reply
07.04.2022	22.04.2022	No reply
18.10.2022	01.11.2022	No reply
13.12.2022	28.12.2022	No reply
08.02.2023	23.02.2023	No reply

Page 3 of 4

2.1 However, the assessee has not complied to the above notices on the reason that assessee's Principal Officer was not well versed with the ITBA portal and the ld. A.R. prayed that an opportunity of hearing may be given to the assessee before NFAC to present assessee's case afresh.

3. The ld. D.R. strongly opposed the argument of ld. A.R. and submitted that assessee has not made use of the opportunities given by NFAC. Hence, the issue may be decided by the Tribunal on merits only.

4. We have heard the rival submissions and perused the materials available on record. In this case, various notices were issued by the NFAC which were not complied by the assessee. It was explained by the ld. A.R. that it is due to their poor knowledge about ITBA portal. Hence, in our opinion, it is appropriate to vacate the order of NFAC and remit the entire issues to the file of NFAC for fresh consideration after giving an opportunity of being heard to the assessee. Since we have already remitted the issue to the file of NFAC, we refrain from commenting anything on the merit of the issues raised before us.

5. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 5<sup>th</sup> July, 2023

**Sd/-**  
**(Beena Pillai)**  
**Judicial Member**

**Sd/-**  
**(Chandra Poojari)**  
**Accountant Member**

Bangalore,  
Dated 5<sup>th</sup> July, 2023.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(Judicial)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

**Asst. Registrar,  
ITAT, Bangalore.**