

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

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.380/Bang/2023
Assessment year : 2018-19

Sutara Learning Foundation, 68, 3 <sup>rd</sup> Floor, 4 <sup>th</sup> Cross, Panduranganagar, B G Road, Bangalore – 560 076. <b>PAN: AAACZ 8264A</b>	Vs.	The Assessing Officer, National Faceless Assessment Centre, Delhi [NFAC], Delhi / ITO (Exemptions), Ward 3, Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Ms. Kavitha P., CA
Respondent by	:	Shri D.K. Mishra, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	26.06.2023
Date of Pronouncement	:	27.06.2023

**ORDER**

*Per Laxmi Prasad Sahu, Accountant Member*

This appeal by the assessee is against the order of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC] DIN & Order No. ITBA/NFAC/S/250/2022-23/050940208(1) dated 18.3.2023 for the assessment year 2018-19 on the following grounds:-

- “1. That in any case and in view of the matter, the action of the Learned Officer in framing the impugned Assessment Order is bad in law and is opposed to the facts and circumstances of the case and thus liable to be set aside.

2. That the Learned CIT(A) erred in passing an exparte Order u/s 250 of the Act without considering the adjournment request filed by the Appellant.
3. That the dismissal of appeal by the Learned CIT(A) without providing opportunity of being heard is against the principals of natural justice.
4. That the Revenue Authorities erred in taxing the prize money as Income from other sources u/s 56(2) of the Act and also grossly erred in taxing the same at maximum marginal rate, without appreciating the facts and circumstances of the case.
5. That the Revenue Authorities ought to have appreciated the taxation is on the income and not on the receipts and failed to allow the deduction of the expenses incurred.
6. That the Learned Revenue Authorities misconstrued that the Appellant has violated the provisions of the FCRA and thereby erroneously taxed the prize money, while the FCRA provisions are not applicable with respect to prize money.
7. That the Revenue Authorities misinterpreted the provisions of the Act and ought to have appreciated that FCRA registration is not a prerequisite for claiming the exemption u/s 11 of the Act.
8. The Act of taxing the receipt based on alleged FCRA violation is ultra-vires the jurisdiction and the same needs to be quashed.
9. That the Appellant denies the liability to pay interest u/s 234B of the Act as the same has been levied erroneously and is required to be deleted,
10. The Appellant craves leave to add, alter, modify, amend substitute or delete all or any of the above Grounds of Appeal.

For these and other grounds that may be argued at the time of the personal hearing, the Appellant prays that the Order be set aside and relief be granted by allowing the exemption u/s 11 of the Act as claimed by the Appellant.”

2. The facts of the case are that the assessee is a company established with the main objects to promote the education and in particular to provide education support to the underprivileged and disadvantaged children of the ages of 6 to 14 years. It is registered u/s. 12A and 80G of the Income-tax Act, 1961 [the Act].

3. The assessee filed return of income after claiming accumulation u/s. 11(2) of Rs.4.16 crores out of its total income of Rs.6.66 crores. After setting apart 15% u/s. 11(1)(a) amounting to Rs.99,95,150 and reducing the expenses, Form 10 was filed for accumulation. During the course of assessment, it was observed that the assessee received Rs.6.40 crores as prize money and the assessee was not registered under FCRA provisions. After examination of details filed by the assessee, the prize money received by the assessee was treated by the AO as income from other sources u/s. 56(2) of the Act and added to the total income.

4. On appeal, the CIT(Appeals) issued notice on 9.3.2023 fixing the response due date on 16.3.2023. The assessee vide its application dated 14.3.2023 sought for adjournment upto 31.3.2023 for gathering material. The CIT(Appeals), however, passed the order on 18.3.2023

dismissing the appeal of the assessee. Aggrieved, the assessee is in appeal before the Tribunal.

5. The Id. AR submitted that the Id. CIT(Appeals) has dismissed the appeal of the assessee without considering the adjournment application filed by the assessee to gather some documents in support of its claim. She submitted that the Id. CIT(Appeals) has not dealt with the issue properly on merits of the case also. Therefore, the assessee should get a chance for substantiating its case before the CIT(Appeals).

6. The Id. DR relied on the orders of the lower authorities.

7. After hearing both the sides, perusing the entire material on record and the orders of the lower authorities, we note that the CIT(Appeals) has issued notice on 09.3.2023 (pg. 98 of PB) and the response due date was 16.3.2023. However, the assessee filed application on 14.3.2023 and sought for adjournment upto 31.3.2023 to gather some material. But the Id. CIT(Appeals), without waiting for the assessee's response, decided the appeal on 18.3.2023 without any further notice to the assessee. Therefore, in the interest of justice, we remit the matter back to the Id. CIT(Appeals) for fresh consideration after giving opportunity of being heard to the assessee. The assessee is directed not to seek unnecessary adjournment.

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

Pronounced in the open court on this 27<sup>th</sup> day of June, 2023.

Sd/-

Sd/-

( GEORGE GEORGE K)  
VICE PRESIDENT

(LAXMI PRASAD SAHU )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 27<sup>th</sup> June, 2023.

*/Desai S Murthy/*

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.