

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.312/PUN/2023

निर्धारण वर्ष / Assessment Year : 2014-15

Ahilya Bahudeshiya Shikshan Prasarak Mandal, 1, Ahilya Niwas, Shree Nagar Barshi Road, Latur- 413512. PAN : AABTA1102C	Vs.	ITO (Exemptions), Nanded.
Appellant		Respondent

Assessee by : None
Revenue by : Shri Rajesh Gawali

Date of hearing : 19.06.2023
Date of pronouncement : 04.07.2023

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 23.01.2023 for the assessment year 2014-15.

2. Briefly, the facts of the case are that the appellant is a charitable society duly registered under the Bombay Public Trust

Act, 1950. The appellant trust was also registered under the provisions of section 12AA of the Income Tax Act, 1961 ('the Act'). The appellant trust was incorporated for the purpose of imparting education. The Return of Income for the assessment year 2014-15 was filed on 29.11.2015 declaring Rs.Nil income. Against the said return of income, the assessment was completed by the Income Tax Officer (Exemption), Nanded ('the Assessing Officer') vide order dated 29.12.2016 passed u/s 143(3) of the Act. While doing so, the Assessing Officer brought to tax as anonymous donation of Rs.35,28,560/- for failure of the assessee to establish the genuineness, identity and creditworthiness of the donors.

3. Being aggrieved by the above assessment order, an appeal was filed before the NFAC. During the proceedings before the NFAC, the appellant society had filed the details of donors from whom, the appellant was stated to have received the donations. The NFAC had called for the remand report from the Assessing Officer on the evidence filed before him. During the course of remand proceedings, the Assessing Officer had issued letters u/s 133(6) of the Act seeking the confirmation from 250 donors out of 550 donors

claimed to be donors of the said amount. None of the donors have responded to the notices issued by the Assessing Officer. When this information was confronted to the assessee trust, the assessee had failed to furnish any reply or submission. In the circumstances, the NFAC concluded that the donations were not genuine, accordingly, upheld the action of the Assessing Officer.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. When the appeal was called on, none appeared on behalf of the assessee despite due service of notice of hearing. However, the written submissions on behalf of the assessee were filed, wherein, the assessee took a plea that there was no justification to treat the donations of Rs.35,28,560/- as anonymous donations, as they had not donations but advance. The NFAC had failed to give a reasonable opportunity to rebut the remand report of the Assessing Officer.

6. On the other hand, ld. Sr. DR relying on the orders of the lower authorities submits that no interference is called for, as the

order of the NFAC is based on proper appreciation of material on record.

7. I heard the ld. Sr. DR and perused the material on record. The issue in the present appeal relates to whether or not the donations of Rs.35,28,560/- can be treated as anonymous donations under the provisions of section 115BBC of the Act. Admittedly, the appellant society had failed to discharge the onus lying upon it to prove the genuineness as well as creditworthiness of the donors by filing the details such as name, address, identity of the donors etc. It is only during the proceedings before the NFAC, the appellant society had attempted to discharge this onus by filing certain details. However, pursuant to the remand order passed by the NFAC, the Assessing Officer had made efforts to verify the genuineness of the evidence filed before the NFAC. The Assessing Officer vide remand report had reported that none of the donors have responded to notices issued u/s 133(6) of the Act. In the circumstances, the NFAC confirmed the action of the Assessing Officer. Even before me, no details were filed establishing the genuineness, identity and creditworthiness of the donors. For the first time, the appellant took

a plea before this Tribunal that the impugned amount is not donation but an advance without any substantiation. The assessee society had not led any evidence before this Tribunal disproving the allegation of the Assessing Officer as confirmed by the NFAC. In the circumstances, I am of the considered opinion that no interference in the findings of the lower authorities is called for. Accordingly, I do not find any merit in the grounds of appeal filed by the assessee.

8. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced on this 04th day of July, 2023.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 04th July, 2023.

Sujeet

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

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

आदेशानुसार / BY ORDER,

// True Copy //

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