

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: SMC: NEW DELHI

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

ITA No.1273/Del/2023
Assessment Year: 2017-18

B N Public School, Block 2C, Badri Narain Mandir, NIT, Faridabad, Haryana 121001 PAN AAAAB 3049 D	vs.	The ACIT (Exemption) Chandigarh 160017
(Appellant)		(Respondent)

For Assessee :	Shri Ranjan Chopra, CA
Revenue For :	Shri Om Parkash, Sr. DR

Date of Hearing :	08.06.2023
Date of Pronouncement :	18.07.2023

ORDER

PER CHANDRA MOHAN GARG, J.M.

This appeal has been filed against the order of Id. ACIT (Exemp), New Delhi dated 28.12.2019 for AY 2017-18.

2. The grounds of assessee are as follows:-

1. That the orders passed u/s 144 by the AO of the Act and w/s 250 of the Act by Id. CIT(A) are grossly inadequate and not in consonance with the principles of natural justice.

2. That Id. CIT(A) erred in confirming the addition made by AO of Rs.37,85,000/- which is not sustainable on facts and in law.

3. That the Id. AO and learned CIT(A) both have erred in holding the cash deposit Of Rs.37,85,000/- made during the demonetization period appearing in the Bank accounts held with Bank of Baroda and Syndicate Bank, as unaccounted income of the assessee us 68 of the Act and treating same as unexplained cash credit.

4. That the Id. AO as well as Id. CIT(A) have erred in treating the cash deposits in bank account during the demonetization period, as taxable U/s 68 of the Act ignoring the fact that the appellant, B N Public School, was a branch of the M/s Garhwal Sabha, a trust registered as a separate entity under the Income Tax Act, and that the cash receipts, which was actually the school fees received from students, in the bank accounts of B N Public School was included in the Financial statements of M/s Garhwal Sabha.

5. That the Id. CIT (A) has failed to appreciate that there was not even a shred of material/evidence with the Id. AO against the assessee to prove that the cash deposited by the assessee was not recorded in the books of the accounts of Garhwal Sabha.

6. That the Id. AO as well as Id. CIT(A) have erred in summarily rejecting and disregarding the concrete and conclusive evidences filed by the assessee with regard to the cash deposits made with Bank of Baroda and Syndicate bank, without making any inquiries to satisfy themselves about the explanation offered by the appellant.

7. That the Id. AO as well as Id. CIT(A) both have erred in appreciating the fact that the assessee was merely a branch of the trust Garhwal Sabha and that the , receipts of the assessee were incorporated in the books of the accounts of Garhwal Sabha.

8. That the Id. CIT(A) has erred in confirming the action of the Id. AO in rejecting the claim of assessee on the basis of theory that the assessee failed to bring anything on record that controvert the findings of the AO that cash deposited by the assessee during Demonetization period was reported in the books of. accounts of Grahwal Sabha.

9. That the Id. CIT (A) has erred in sustaining the allegations made by the Id. A.O. by totally ignoring the fact that the appellant has explained the source of cash deposit of Rs. 37,85,000/- as fee received from students by having furnished copies of IT & Computation of Garhwal Sabha having PAN AAATG8387N along with a reconciliation of fees received in cash and in bank account with the income reported in the financial statements, though the details pertaining to cash deposit during demonetization period was inadvertently not filled in the respective of column of IT filed by Garhwal Sabha.

3. The Id. AR submitted that the Id. AO and learned CIT(A) both have erred in holding the cash deposit Of Rs.37,85,000/- made during the demonetization period appearing in the Bank accounts held with Bank of Baroda and Syndicate Bank, as unaccounted income of the assessee us 68 of the Act and treating same as unexplained cash credit. He further submitted that the Id. AO as well as Id. CIT(A) have erred in treating the cash deposits in bank account during the demonetization period, as taxable U/s 68 of the Act ignoring the fact that the appellant, B N Public School, was a branch of the M/s Garhwal Sabha, a trust registered as a separate entity under the Income Tax Act, and that the cash receipts, which was actually the school fees received from students, in the bank accounts of B N Public School was included in the Financial statements of M/s Garhwal Sabha.

4. The Id. counsel drawing our attention towards paper book of assessee spread over 73 pages submitted that the Id. CIT(A) has failed to appreciate that there was not even a shred of material/evidence with the Id. AO against the assessee to prove that the cash deposited by the assessee was not recorded in the books of the accounts of Garhwal Sabha and thus, have erred in summarily rejecting and disregarding the concrete and conclusive evidences filed by the assessee with regard to the cash deposits made with Bank of Baroda and Syndicate bank, without making any inquiries to satisfy themselves about the explanation offered by the appellant. He vehemently

pointed out that the Id. AO as well as Id. CIT(A) both have erred in appreciating the fact that the assessee was merely a branch of the trust Garhwal Sabha and that the , receipts of the assessee were incorporated in the books of the accounts of Garhwal Sabha and thus, the Id. first appellate authority has erred in confirming the action of the Id. AO in rejecting the claim of assessee on the basis of theory that the assessee failed to bring anything on record that controvert the findings of the AO that cash deposited by the assessee during Demonetization period was reported in the books of. accounts of Grahwal Sabha.

5. The Id. AR lastly, submitted that the authorities below have grossly erred in appreciating the documentary evidence of assessee and hence the Id. CIT(A) has erred in sustaining the allegations made by the Id. A.O. by totally ignoring the fact that the appellant has explained the source of cash deposit of Rs. 37,85,000/- as fee received from students by having furnished copies of IT & Computation of Garhwal Sabha having PAN AAATG8387N along with a reconciliation of fees received in cash and in bank account with the income reported in the financial statements, though the details pertaining to cash deposit during demonetization period was inadvertently not filled in the respective of column of IT filed by Garhwal Sabha. Finally, it was submitted that the addition may kindly be deleted considering the fact of inclusion of impugned amount in the receipts of M/s Grahwal Sabha.

6. Replying to the above, the Id. Senior DR supported the orders of authorities below and submitted that the assessee failed to substantiate its explanation therefore the addition was rightly made by the Assessing Officer.

7. On careful consideration of above submissions, first of all, we note that M/s B N Public School is owned and run by Ms/ Grahwal Sabha having PAN number and all the income and expenditure of appellant in reported under the financial statements of said sabha as the appellant comes under the administration and control of said sabha. From the paper book page 21 computation of income reveals that there is a clear mention of fact in the head particulars of business as running of B N Public School and Temple and page 24 also reveals that the income earned expenditure account of M/s Grahwal Sabha for the year ended on 31.03.2017 reflects fee received from the students of B N Public School. After noting said facts, which have not been disputed by the Id. Senior DR and the Assessing Officer we proceed to adjudicate the grievance of assessee. The Assessing Officer picked up amount of Rs. 34,90,000/- deposited to the account with Bank of Baroda, Faridabad branch no. xxxx876 and Rs. 2,95,000/- to bank account with Syndicate Bank, Tilpat branch account no. xxxx49662.

8. The main contention of assessee is that the impugned deposit are actually fees received from the student in cash which was deposited to the said bank accounts which were duly reflected in schedule E of audited financial of Grahwal Sabha as on

31.03.2017. The fees received from the student in cash is accounted and included in the amount of fees received shown in the income and expenditure account of M/s Grahwal Sabha and thus the schedule to said account available at page 32 of assessee paper book reveals that the said sabha has shown total amount of Rs. 10,51,64,909/- which includes impugned amount of Rs. 37,50,000/- directly deposited to the bank account of B N Public School.

9. The present appellant was consistently submitting before the authorities below that since it is under administrative and financial control of M/s Grahwal Sabha who is taking care of its receipts and expenditure therefore the appellant did not file the return of income for the year under consideration. Obviously, if an institution is owned and run by some society or trust then every institution need not to take separate PAN number and thus not required to file separate return of income particularly in a situation when the receipts of such institution are taken care and included in the income and expenditure account or controlling entity or society or trust. In the present case the conclusion drawn by the authorities below is quite contrary to the factual position of the case where the appellant has successfully demonstrated that the impugned amount of cash deposited to its bank account was accumulated fees received from its student in cash and the same was included in the income and expenditure account of controlling society M/s. Grahwal Sabha therefore no addition was required to be made in the hands of assessee when the source and its use along with its accumulation and disclosure to the Department by M/s Grahwal Sabha has been successfully establish by the assessee. Accordingly, grounds of appellant are allowed and Assessing Officer directed to delete the addition.

10. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 18.07.2023.

Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Dated: July, 2023.

Sd/-

(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

NV/-

Copy forwarded to :

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

// By Order //

Asstt. Registrar, ITAT, New Delhi