

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "A" BENCH : PUNE
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER
ITA.Nos.275, 276, 277, 278 & 279/PUN./2023
Assessment Years 2013-2014, 2014-2015, 2015-2016, 2016-2017 & 2017-2018

Association of Oral Maxillofacial Surgeons of India, PN 38, S.No.16, Butte Patil Classic, Prabhat Road, Erandwane, Pune-411 004, Maharashtra. PAN AABTA3313P	vs.,	The ACIT, Exemption, Ward – 1 (1), PMT Bldg., Swargate, Pune – 411 037 Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Kishor B. Phadke
For Revenue :	Shri Ramnath P. Murkunde

Date of Hearing :	24.07.2023
Date of Pronouncement :	25.07.2023

ORDER

PER BENCH :

These assessee's five appeals, ITA.Nos.275, 276, 277, 278 & 279/PUN./2023 arise against the National Faceless Appeal Centre [in short "NFAC"] Delhi's separate Din and Order Nos. ITBA/NFAC/S/250/2022-23/1048694568(1), 1048694399(1), both dated 13.01.2023 [A.Ys.2013-2014, 2014-2015] and Nos. 1048675042(1), 1048674549(1), and 1048674738(1), all 12.01.2023 [A.Ys. 2015-2016, 2016-2017 & 2017-2018], respectively, involving proceedings u/s. 147 r.w.s. 144 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties at length. Case files perused.

2. We find during the course of hearing that there is hardly any need for us to delve deeper in the relevant factual matrix, so far as correctness of both the learned lower authorities action *inter alia* treating this assessee as a AOP than a Trust carrying charitable activity(ies) thereby denying 10% of various heads of expenditure involving varying sums on estimation; assessment year-wise, respectively, is concerned. This is for the precise reason that both the Assessing Officer as well as the CIT(A) have treated the assessee as an AOP only for want of registration u/sec.12AA of the Act. There would be hardly any issue between the parties in the light of hon'ble apex court's landmark decision in U.P. Forest Corporation and Another vs., DCIT [1998] 230 ITR 945 (SC) that such a registration forms condition precedent for the purpose of claiming sec.11 exemption.

3. Now comes the most clinching development which has taken place after the institution of all these cases on 13.03.2023. The Revenue could hardly dispute that the learned CIT(E) has passed his order granting sec.12AA registration on 18.05.2023 thereby conferring it status of a 'trust' carrying-out various charitable activities. His order to this effect forms part of the paper book at pages 122 to 127

wherein the CIT(E) has accepted the assessee's sec.12AA application filed way back on 07.08.2018 before him.

4. Now comes the above twin issues between the parties. We are of the opinion that once the assessee has been granted registration u/sec.12AA of the Act, the main legal issue has already gone in its favour. So far as the latter issue of 10% disallowance on estimation basis is concerned (supra), learned counsel has filed paper book comprising of all the relevant annual reports right from F.Ys.2012-13 to 2016-17 as well as other details of the expenditure heads for the first time before us by way of additional evidence. Mr. Phadke's case before us is that since the Assessing Officer had framed his re-assessments in issue during Covid-2019 pandemic outbreak period on 23.09.2021 and most of the lower appellate proceedings before the lower appellate authority have also taken place during the very time duration only, the assessee was prevented from reasons beyond its control to collect all the relevant evidence pertaining to different placing of conferences etc. Faced with the situation, and more so, the assessment years before us are A.Ys. 2013-14 to 2017-18, we feel that it would be in larger interest of justice in case the "NFAC" itself re-adjudicates these twin issues afresh after getting the necessary remand report(s) from the field authorities, subject to the condition that it shall be risk and

responsibility of the assessee only to lead and prove all the relevant evidence within the foregoing specified number of opportunities. Ordered accordingly.

5. These assessee's five appeals are allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 25.07.2023.

Sd/-
[DR. DIPAK P. RIPOTE]
ACCOUNTANT MEMBER

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 25th July, 2023

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The NFAC, Delhi
4.	The CIT (Exemptions) Pune
5.	D.R. ITAT, Pune "A" Bench, Pune
6.	Guard File.

//By Order//

Assistant Registrar, ITAT, Pune Benches,
Pune.