

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH, 'A' PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.607/PUN/2023

निर्धारण वर्ष / Assessment Year : 2017-18

ITO (Exemption) Ward, Kolhapur	Vs.	Dakshin Bharat Jain Sabha, 37, Vakhar Bhag, High School Road, Mahaveer Nagar, Sangli – 416 416 Maharashtra PAN : AAATD1154G
Appellant		Respondent

Assessee by  
Revenue by

Shri Pramod S. Shingte  
Shri Ramnath P. Murkunde

Date of hearing

08-09-2023

Date of pronouncement

11-09-2023

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the Revenue is directed against the order dated 23-03-2023 passed by the CIT(A) in National Faceless Appeal Centre (NFAC), Delhi in relation to the assessment year 2017-18.

2. The only grievance of the Revenue in this appeal is against the direction of the Id. CIT(A) to the Assessing Officer (AO) for taxing only the total income of the assessee as against the gross receipts.

3. Briefly stated, the facts of the case are that the assessee trust is registered u/s.12A of the Income-tax Act, 1961 (hereinafter also

called 'the Act'). It did not file Form No.10B along with its return of income for the year under consideration. The Centralized Processing Centre (CPC) completed the assessment u/s.143(1), disallowing the claim of exemption u/s 11 of the Act. The assessee, thereafter, filed Form No.10B and moved application for rectification u/s.154 of the Act. The CPC dismissed the application u/s.154. The assessee preferred appeal before the Id. CIT(A), who held that the application filed by the assessee was rightly rejected because in the absence of the uploading Form No.10B on time, it was not entitled to exemption. He, however, directed the AO to tax only the total income of the assessee as against the gross receipts which was subjected to tax. Aggrieved thereby, the assessee has come up in appeal before the Tribunal.

4. Having heard the rival submissions and gone through the relevant material on record, it is seen that the order of the Id. CIT(A) has attained finality *qua* the assessee's grievance inasmuch as there is no appeal anent to the disallowance of claim of exemption u/s.11. Thus, the only issue which survives in the Revenue's appeal is about taxing the gross receipts or total income. If the necessary form is filed on time, the assessee, subject to the other provisions, becomes entitled to exemption. In case the exemption is denied, it becomes a case of normal assessment, in which only the total

income can be taxed and not the gross receipts. In the instant case, the Department, after rejecting the claim for exemption, charged to tax the gross receipts. The Id. CIT(A), in our considered opinion, was fully justified in directing the AO to tax only the total income of the assessee and not the gross receipts. We, therefore, countenance the same.

5. In the result, the appeal is dismissed.

Order pronounced in the Open Court on 11<sup>th</sup> September, 2023.

Sd/-  
(PARTHA SARATHI CHAUDHURY)  
JUDICIAL MEMBER

Sd/-  
(R.S.SYAL)  
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 11<sup>th</sup> September, 2023  
सतीश

**आदेश की प्रतिलिपि □ प्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The respondent
3. The Pr.CIT concerned
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

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

		Date	
1.	Draft dictated on	08-09-2023	Sr.PS
2.	Draft placed before author	08-09-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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