

आयकर अपीलीय अधिकरण “सी” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI V. DURGA RAO, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.18/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2020-21)

ITO (Exemptions) Trichy.	बनम / Vs.	M/s. Papathiyammal Pitchai Educational Trust Muthunagar, Hiranyamangalam, Mettupatty, Kulithalai-639 107 (Karur Dist.)
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. AABTP-7831-M		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri P.Sajit Kumar (JCIT)- Ld. Sr. DR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri S. Sridhar (Advocate)-Ld.AR

सुनवाई की तारीख/ Date of Hearing	:	19-10-2023
घोषणा की तारीख / Date of Pronouncement	:	19-10-2023

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by Revenue for Assessment Year (AY) 2020-21 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 09-11-2022 in the matter of an intimation issued by CPC u/s. 143(1) of the Act on 24-12-2021. The grounds taken by the Revenue read as under: -

1. The order of the learned CIT(A) is contrary to law and facts of the case.

2.1 The Learned CIT(A) erred in allowing the benefit u/ s.11 of the Income Tax Act, 1961, without actually considering the fact each assessment year is different and each year the issue should be decided afresh because the cause of action for each assessment year is distinct. Reliance is placed on the decision of the Hon'ble Apex Court in the case of Bharat Sanchar Nigam Limited and Ors Vs. UOI (2006) 3 SCC 1 wherein it has been observed that Res judicata does not apply in matters pertaining to tax for different assessment years because res judicata applies to debar Courts from entertaining issues on the same cause of action whereas the cause of action for each assessment year is distinct. As a general rule, each year's assessment is final only for that year and does not govern later years, because it determines the tax for a particular period.

2.2 The CIT (A) erred in giving a finding that A.O. should not deny the benefits of section 11 & 12 of the Act when the assessee is possession of registration u/s.12AA of the Income Tax Act, 1961.

2.3 The CIT (A) has erred in not appreciating the fact exemption u/ s.11 of the Income Tax Act, 1961, is available to the assessee only when the assessee complies with the mandatory eligibility conditions as provided in sections 11, 12 and 13, including filing of return of income and Audit Report in Form 10B, within the statutory due date as per provisions of Sec. 139(1) of the Income Tax Act, 1961.

3. For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing Officer restored.

2. The Ld. Sr. DR advanced arguments and assailed the adjudication of Ld. CIT(A) in the impugned order. The Ld. Sr. DR submitted that the Ld. CIT(A) did not consider the fact that the assessee filed return of income belatedly and did not file Form No.10B to lay claim on applicable deduction u/s 11 /12. The Ld. AR, on the other hand, placed on record condonation petitions filed by the assessee trust before appropriate authorities [CBDT / CIT (Exemptions)] seeking condonation of delay u/s 119(2)(b). The Ld. AR also sought to impress upon the fact that no communication was issued by CPC before making impugned adjustment. Having considered case records, our adjudication would be as under.

3. It emerges that the extended due date of return of income for the assessee trust was 15-02-2021. However, the assessee filed return of income on 30-03-2021 belatedly. Consequently, the deduction claimed by the assessee u/s 11 / 12 was denied by CPC while processing the return of income u/s 143(1).

4. Upon further appeal, Ld. CIT(A) held that AO did not point out any reasons to deny the benefit. The income of the assessee was accepted in AY 2019-20. The assessee was registered u/s 12AA and it was imperative to provide the benefit of exemption / deduction as available to it. Accordingly, AO was directed to grant the impugned deduction against which the revenue is in further appeal before us.

5. We are of the considered opinion that though the assessee has valid registration u/s 12AA, still, it has to comply with the mandatory requirements of law to lay claim on impugned deduction. The law mandates the assessee to file return of income within due date as prescribed u/s 139(1) along with Form No.10B so as to lay claim on this deduction. Certainly, the assessee has defaulted in the same. Now, Ld. AR has submitted evidences of seeking relevant condonation from appropriate authorities. Therefore, considering the same, we set aside the order of Ld. CIT(A) and restore the appeal back to the file of Ld. CIT(A) for fresh adjudication in the light of condonation petitions filed by the assessee. All the issues are kept open.

6. The appeal stand allowed in terms of our above order.

Order pronounced on 19th October, 2023.

Sd/-

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 19-10-2023
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF