

आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ,कटक

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH CUTTACK

श्री जार्ज माथन, न्यायिक सदस्य के समक्ष ।

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं/ITA No.233 & 234/CTK/2023

(निर्धारण वर्ष / Assessment Year :2013-2014 & 2014-2015)

Mahalaxmi Binodini Memorial Charitable Trust, 77, Satya Nagar, Bhubaneswar-751007	Vs	ITO, Exemption, Bhubaneswar
PAN No. : AACTM 2228 G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	None
राजस्व की ओर से /Revenue by	:	Shri Charan Dass, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	20/10/2023
घोषणा की तारीख/ Date of Pronouncement	:	20/10/2023

आदेश / O R D E R

These are the appeals filed by the assessee against the order of the Id CIT(A), National Faceless Appeal Centre (NFAC), Delhi, both dated 28.04.2023 passed in DIN & Order No.ITBA/NFAC/S/250/2023-24/1052439583(1) & ITBA/NFAC/S/250/2023-24/1052433882(1) for the assessment year 2013-2014 & 2014-2015, wherein the assessee's claim of exempt income has been denied.

2. None represented on behalf of the assessee. Shri Charan Dass, Sr. DR appeared on behalf of the revenue at the time of hearing. Ld.Sr. DR was asked to show the show cause notice issued as per the proviso to Section 143(1) of the Act before issuance of the intimation u/s.143(1) of the Act. The Sr. DR was unable to show the copy of the show cause notice as required under the first proviso to Section 143(1) of the Act before making any adjustments in the intimation u/s.143(1) of the Act. The intimation u/s.143(1) of the Act also does not show of any shows cause

notice being issued to the assessee. This being so, respectfully following the decision of the coordinate bench of this Tribunal in the case of Sikshya Bharat Trust, passed in ITA No.240/CTK/2023, dated 21.09.2023, wherein it has been held as under :-

6. *I have considered the rival submissions. A perusal of provisions of section 143(1) of the Act shows that it is compulsory for the revenue to issue show cause notice before making any adjustment in the intimation u/s.143(1) of the Act. The letter received from CPC, Bengaluru also clearly admits that no show cause notice has been issued to the assessee. This being so, as no show cause notice under the provisions of section 143(1) has been issued before making adjustment, the intimation issued u/s.143(1) stands quashed.*

3. As there is no show cause notice has been issued to the assessee before making adjustment in the intimation u/s.143(1) of the Act for both the assessment years, therefore, the intimation issued u/s.143(1) of the Act in both the appeals under consideration stand quashed.

4. In the result, both appeals of the assessee are allowed.

Order dictated and pronounced in the open court on 20/10/2023.

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 20/10/2023

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
Mahalaxmi Binodini Memorial Charitable Trust,
77, Satya Nagar,
Bhubaneswar-751007
2. प्रत्यर्थी / The Respondent-
ITO, Exemption, Bhubaneswar
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR,
ITAT, Cuttack

6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack