

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'SMC' : NEW DELHI)**

SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.2014/Del./2023
(ASSESSMENT YEAR : 2022-23)**

Wise Human Being Foundation,
H-63, Vijay Chowk,
Laxmi Nagar,
Delhi – 110 092.

vs. DCIT, Circle 60(1),
New Delhi.

(PAN : AAAAW5030H)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Ravi Pratal Mall, Advocate
REVENUE BY : Shri Vivek K. Upadhayay, Sr. DR

Date of Hearing : 26.10.2023

Date of Order : 01.11.2023

ORDER

This appeal filed by the assessee is directed against the order of Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 12.05.2023 pertaining to assessment year 2022-23.

2. Grounds of appeal taken by the assessee read as under :-

“1. That the learned National Faceless Appeal Centre (NFAC), Delhi has grossly erred both in law and on facts in dismissing the appeal of the appellant without granting any opportunity of being heard to the appellant, and hence the order passed in violation of principles of natural justice is unsustainable in law.

2. That learned NFAC has grossly erred both in law and on facts in sustaining the denial of exemption under section 11(2) of the Act and bringing to tax a sum of Rs.9,90,000/- failing to

appreciate that the appellant has filed the Form 10B before filing the return of income.

3. That learned NFAC has grossly erred both in law and on facts in failing to appreciate that once the appellant has filed Form 10B before filing the return of income, denial of exemption u/s 11 (2) of the Act is outside the scope of section 143(1) of the Act.

4. That learned NFAC has erred in failing to appreciate that the balance sheet and statement of profit and loss account was prepared by the Chartered Accountant on 02.09.2022, however, audit report in form 10B could not be uploaded earlier on account of technical glitch on the portal, as such, form 10B was uploaded on 25.10.2022 when the return of income was also filed by the appellant and hence the denial of exemption is unsustainable in law.”

3. At the outset, in this case, Id. Counsel of the assessee pleaded that there is lack of proper opportunity at the level of Id.CIT (A) and he prayed that this aspect should be considered by the Tribunal. He submitted that pursuant to the assessment order, upon assessee’s appeal, Id. CIT (A) has issued notice of hearing on 03.05.2023 to produce its submissions on or before 08.05.2023 and finding that same was not complied with, the Id. CIT (A) has decided the issue against the assessee.

5. I have heard both the parties and perused the records. I find that it is true from the facts that the assessee had been given very brief time to respond which is against the principles of natural justice. Hence, I am of the considered opinion that the matter should be remanded to the file of Id. CIT (A) to consider the issue afresh after giving the assessee proper

opportunity of being heard. Ld. DR for the Revenue fairly agreed to the above proposition. Accordingly, I remit the issue to the file of ld. CIT (A) to decide afresh after giving the assessee proper opportunity of being heard.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 1st day of November, 2023.

**Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 1st day of November, 2023
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.