

IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. /ITA Nos.999 & 1000/PUN/2023

निर्धारण वर्ष / Assessment Years : 2016-17 & 2017-18

The Nagar Vachanalaya Vita, Choundeshwari Chowk, Vita Lengare Road, Khanapur, Sangli – 415 311 Maharashtra	Vs.	ITO, Exemption Ward, Kolhapur
Appellant		Respondent

Assessee by Smt. Deepa Khare
Revenue by Shri Arvind Desai

Date of hearing 06-11-2023
Date of pronouncement 06-11-2023

आदेश / ORDER

PER R.S. SYAL, VP:

These two appeals by the assessee arise out of the separate orders, both dated 10-08-2023, passed by the Id. CIT(A) in National Faceless Appeal Centre (NFAC), Delhi u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') in relation to the assessment years 2016-17 & 2017-18. Since both the appeals are based on identical facts and common grounds of appeal, I am, therefore, proceeding to dispose them off by this consolidated order for the sake of convenience.

2. At the outset, it is relevant to mention that the additional ground raised by the Id. AR was not pressed at the time of hearing. The same is, therefore, dismissed as 'not pressed'.

3. The only issue raised through the solitary effective ground is the disallowance of expenses incurred for charitable purposes after the denial of exemption.

4. Briefly stated, the facts of the case, are that the assessee is a Public Charitable Trust providing Books, Magazines, Newspaper etc. to the public at large. For the A.Y. 2016-17, the assessee received a grant from the State Government and incurred expenses which were not allowed by the Centralized Processing Centre (CPC), Bengaluru at the time of processing the return u/s.143(1) of the Act. The assessee contended before the Id. CIT(A) that deduction be allowed towards expenses incurred, if exemption was not to be allowed. The Id. CIT(A) opined that registration u/s.12A was a pre-requisite for claiming exemption u/s.11 & 12. Since the assessee was not registered in terms of section 12A, the Id. CIT(A) denied the benefit of exemption, without expressing any specific opinion on the deductibility of expenses.

5. I have heard the rival submissions and perused the relevant material on record. It is an undisputed fact that the assessee was not

granted exemption u/s.11. The Id. AR was fair enough not to press for the grant of benefit of exemption u/s.11. The limited relief contended before the Id. CIT(A) as well as the Tribunal is that the income should be charged to tax and not the gross receipts. The Id. AR furnished details of certain expenses and requested for the granting of necessary relief. There can be no dispute on the fact that the tax is charged on income and income is deduced by reducing the deductible expenses/allowances from the revenue receipts. If exemption u/s.11 is allowed, then the excess of receipts over expenses gets exempted subject to the stipulated ceilings. In case the exemption is denied, then it is only the excess of receipts over eligible and deductible expenses/allowances that can be charged to tax. In the facts and circumstance of the case, the AO charged to tax the gross receipts without granting any deduction towards expenses and deductions. I, therefore, set-aside the impugned order and remit the matter to the file of AO for deducing the total income in accordance with law after considering the deductibility of various expenses noted in the Income and Expenditure account on the touchstone of the relevant provisions. Needless to say, the assessee will be allowed reasonable opportunity of hearing.

6. Both the sides are in agreement that the facts and circumstances in the appeal for A.Y. 2017-18 are *mutatis mutandis* similar. Following the view taken hereinabove for the A.Y. 2016-17, the impugned order for the A.Y. 2017-18 is also set-aside and the matter is remitted to the file of the AO for deciding the issue in conformity with the directions given above.

7. In the result, both the appeals are partly allowed for statistical purposes.

Order pronounced in the Open Court on 06th November, 2023.

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

पुणे Pune; दिनांक Dated : 06th November, 2023
Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The Pr.CIT concerned
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,
SMC, Pune / DR, ITAT, 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	06-11-2023	Sr.PS
2.	Draft placed before author	06-11-2023	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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