

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.536/Bang/2023
Assessment year : 2018-19

Society for Karnataka German Multiskill Development Centres, COE Building, Kaushalya Bhavan Campus, Bannerughatta Road, Dairy Circle, Bengaluru – 560 029. PAN: AAGAS 8867C	Vs.	The Assessing Officer, National E-Assessment Centre, Delhi / The Income Tax Officer (Exemptions), Ward 3, Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Ravindra M. Hegde, CA
Respondent by	:	Shri Subramanian S, Addl.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	10.11.2023
Date of Pronouncement	:	16.11.2023

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the DIN & Order No.ITBA/NFAC/S/250/2022-23/1050533853(1) dated 09.03.2023 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2018-19 on the following grounds:-

“1. The impugned order passed by the learned CIT(A), NFAC, is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the Appellant's case.

2. The impugned assessment proceedings are bad in law, non est and passed in violation of principles of natural justice on the facts and circumstances of the case.
 3. The impugned assessment proceedings are without jurisdiction and consequently, the assessment order is bad in law on the facts and circumstances of the case.
 4. The impugned assessment order passed by the learned Assessing Officer u/s 143(3) of IT Act 1961 is bad in law, void ab initio and liable to be quashed on the facts and circumstances of the case.
 5. The impugned assessment order passed by the learned Assessing Officer u/s 143(3) of the IT Act 1961 is in gross violation of principles of natural justice on the facts and circumstances of the case.
 6. The impugned order passed by the learned CIT(A), NFAC is in gross violations of principles of natural justice on the facts and circumstances of the case.
 7. The Appellant denies itself liable to be assessed at a total income of Rs. 1,92,48,920/- as against the returned income of Rs. Nil on the facts and circumstances of the case.
 8. The disallowance of expenditure amounting to Rs. 43,08,012/- is bad in law on the facts and circumstances of the case.
 9. The authorities below failed to appreciate that the amount of Rs. 1,49,40,901/- added to the total income of the Appellant as unexplained business income is grant received from government and consequently, no addition of such amount is warranted on the facts and circumstances of the case.
 10. The Appellant craves leave to add, alter, modify, delete or substitute any or all of the grounds and to file a paper book at the time of hearing the appeal.
 11. In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.”
2. The brief facts of the case are that the assessee filed NIL income on 01.10.2018 which was processed u/s. 143(1) of the Act.

Subsequently the case was selected for scrutiny and statutory notices were issued to the assessee. The assessee trust is registered u/s. 12A of the Act vide No.DIT(E)BLR/12A/S-2551/AAGAS8867C/ITO(E)/2013-14 dated 26.11.2013. The AO noted that the assessee incurred capital expenditure of Rs.4,11,70,685 for charitable/religious purposes and has shown large receipts from incidental objects of Rs.1,49,40,901 during the year and called for details from the assessee in this regard. The AO observed that except computation of income certificate u/s. 12A & 80G, no other details were furnished by the assessee and provided various opportunities to the assessee. He therefore treated the receipts of Rs.1,49,40,901 as business income. The AO also noted that assessee claimed depreciation on new assets purchased during the year of Rs.4,11,70,685 and disallowed depreciation of Rs.43,08,012. He therefore made an addition of Rs.1,92,48,920 to the total income.

3. On appeal, the CIT(Appeals) issued various notices, but the assessee did not respond. Therefore, the CIT(Appeals) decided the case on the basis of material on record and dismissed the appeal of the assessee, without going into the merits of the case. Against this, the assessee is in appeal before the Tribunal.

4. The appeal before the Tribunal is time barred by 80 days and in this regard the assessee has submitted application for condonation of delay stating that there was a delay in submitting the relevant papers by Mr. Sudheendra, Accountant to the Auditor in connection with filing of appeal and requested for condonation of delay. After hearing both the

parties, it is observed that there is sufficient reason for the delay in filing the appeal before the Tribunal and following the judgment of the Hon'ble Apex Court in the case of Collector, Land Acquisition Vs. MST. Katiji and Others (1987) 167 ITR 471, the delay is condoned.

5. The Id. AR submitted that the AO has wrongly completed the assessment u/s. 143(3) and determined the income at Rs.1,92,48,913. During the year, the assessee made addition to the fixed assets of Rs.4,11,70,685 on which depreciation has been claimed at Rs.43,08,012. The assessee also received Government grant of Rs.1,49,40,901 which is exempt income. However, since the assessee could not establish these claims with documentary evidence, the AO has disallowed the claim of the assessee and made addition. Due to non-receipt of notices, the assessee could not properly respond before the CIT(Appeals). The Id. AR undertook that if a chance is given, the assessee will prove the source & genuineness of addition to the fixed assets, claim of depreciation and the evidence of Government grant received along with other documents and substantiate its case before the AO.

6. The Id. DR opposed the request of the Id. AR and submitted that the CIT(Appeals) has issued various notices, but the assessee did not respond to the same, therefore he was bound to pass ex parte order for want of evidence and assessee's submissions.

7. Considering the rival submissions, we note that the AO has made the addition for want of evidence towards the receipts and the

depreciation claim and completed the assessment at Rs.1.92 crores. The assessee did not respond to the notices issued by the CIT(Appeals). In view of the undertaking of the Id. AR that necessary documents along with evidence will be submitted in support of assessee's claim, in the interest of justice, we restore the issues to the file of Assessing Officer for fresh consideration and decision as per law, after giving reasonable opportunity of being heard to the assessee. The assessee is directed to produce all the relevant documents to substantiate its claim and avoid seeking unnecessary adjournment for early disposal of the case.

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

Pronounced in the open court on this 16th day of November, 2023.

Sd/-
(GEORGE GEORGE K.)
VICE PRESIDENT

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 16th November, 2023.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.