

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, MUMBAI**

BEFORE SHRI PRASHANT MAHARISHI, AM  
AND  
MS. KAVITHA RAJAGOPAL, JM

**ITA No. 2587/Mum/2023**

(Assessment Year: 2020-21)

Lintas Employees Education  
Trust

13<sup>th</sup> Floor, Express Towers,  
Nariman Point,  
Mumbai-400 021

**(Appellant)**

Centralised Processing  
Centre,

Income Tax Department  
Bengaluru-560500

Vs.

**(Respondent)**

**PAN No. AAATL0331P**

**Assessee by** : Shri Prakash Jotwani, AR  
**Revenue by** : Shri Manoj Kumar Sinha, DR

**Date of hearing:** 13.11.2023

**Date of pronouncement** 15.11.2023

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**ORDER**

**PER PRASHANT MAHARISHI, AM:**

01. ITA No. 2587/Mum/2023 is filed by Lintas Employees Education Trust, Mumbai for A.Y. 2020-21, against the appellate order passed by the National Faceless Appeal Centre (NFAC), Delhi, dated 8<sup>th</sup> June, 2023, wherein the appeal filed by the assessee against the order dated 13<sup>th</sup> April, 2022, passed under Section 154 of the Income-tax Act, 1961 (the Act) by the Dy. Commissioner of Income Tax, Central Processing Centre, was statistically allowed.

02. The assessee has raised following grounds of appeal:-

*"GROUND NO.1: ADDITION IN AN INTIMATION ORDER U/S. 143(1)*

*1. The learned CIT(A) failed to take into consideration that the AO/CPC does not have any jurisdiction to make an adjustment in an Intimation Order u/s 143(1), and that the same should have been a matter of scrutiny proceedings and therefore clearly it is a mistake apparent on record.*

*GROUND NO. 2: DIVIDEND INCOME of Rs. 19,68,793/-*

*1. The learned CIT(A) erred in setting aside the Assessment Order with a direction to verify the claim of the Appellant from the records, and if found correct then to allow the same.*

*2. The learned CIT(A) failed to take into consideration that the power given to him under the terms of section 251(1)(a) of the Act, relates to confirming, reducing, enhancing or annulling the assessment and does not have the power to set aside the assessment to the AO and leave it to him for his adjudication.*

*3. Without prejudice the learned CIT(A) failed to take into consideration that the Dividend income from Mutual Funds is exempt from tax u/s 10(35) and therefore cannot be treated as taxable income under the head 'Profits and Gains of Business/Profession.*

*GROUND NO. 3: INTEREST FROM TAX FREE BONDS RS. 1,12,880/-*

1. *The learned CIT(A) erred in not adjudicating this ground of appeal that was raised before the first appellate authority.*

2. *Without prejudice, the learned CIT(A) failed to take into consideration that the Interest from Tax Free Bonds is exempt from tax u/s. 10(15) and therefore cannot be treated as taxable income under the head Profits and Gains of Business/Profession'.*

03. The fact shows that assessee is an association of persons, formed for the purpose of benefit of the employees of Lintas Employees Education Trust group. It filed its return of income on 30<sup>th</sup> December, 2020, at the total income of ₹7,14,550/-. In the return of income, assessee claimed exempt dividend income of ₹19,68,793/- and interest from tax free bonds of ₹1,12,880/-. Intimation was passed under Section 143(1) of the Income-tax Act, 1961 (the Act) on 25<sup>th</sup> November, 2021, wherein the above exempt income was not considered as exempt income but treated as income from business and profession. Thus, the gross total income shown by the assessee of ₹7,14,550/- was considered at ₹27,96,230/-. In the intimation under Section 143(1) of the Act in annexure of business and profession at row no.5(c), the income credited to profit and loss account which is exempted, shown to be ₹20,81,673/-. Thus, in the return of income total exempt income (5a+5b+5c) was shown to be ₹20,81,673/-. The income computed under Section 143(1) of the Act has also shown the exact sum in row no.5(c), however, in intimation total exempt income should be the total of 5a+5b+5c was taken at ₹nil. Against this intimation, assessee preferred the application for rectification of total income however, the

rectification order passed on 13<sup>th</sup> April, 2022, which did not rectify the above error. Therefore, the assessee preferred the appeal before the learned CIT (A), who held as per paragraph no.4.4 that the dividend income is taxable in the hands of the investors only after 1<sup>st</sup> April, 2020 and therefore, for A.Y. 2020-21, same is not taxable. He directed the learned Assessing Officer to verify the claim and then allow it with respect to interest free tax from bonds of ₹1,12,880/-, no findings were given. Therefore, assessee is in appeal before us.

04. We have heard the rival contentions and perused the orders of the lower authorities. The only issue involved in this appeal is that in the return of income assessee has claimed exempt income comprising of dividend income of ₹19,68,793/- and interest from tax free bonds of ₹1,12,880/- in the return of income, assessee has disclosed the same. While computing the total income also under Section 143(1) of the Act, the above income is considered as an exempt income, however, in annexure, business and profession as A(5)(c) the same amount was considered as exempt income by the learned Assessing Officer also however, row (d), which is the total of 5(a) to 5(c) it was not considered and taken as Nil. Therefore, it is apparent error in the intimation under Section 143(1) of the Act. If claim of the assessee of exempt income is found to be incorrect by CPC under Section 143(1)(a)(ii) of the Act, then prior to making such an adjustment an intimation should have been given to assessee. Admittedly, no such intimation is given. The rectification order passed under Section 154 of the Act also does not given any reason for rejection of the same but reiterates the intimation under Section 143(1) of the Act. The learned CIT (A) has categorically held that dividend income is not taxable for this year u/s 10 (35 ) of the Act. Further,



interest free tax free bonds are also exempt under Section 10(15) of the Act. Both these adjustments could not have been made without giving intimation to the assessee. Apparently, the dividend income from Mutual Fund is exempted from tax under Section 10(35) and interest on tax free bond is exempt u/s 10 (15) of the Act. Therefore, both these income i.e. dividend income of ₹19,68,793 and interest from tax free bonds of ₹1,12,880/- could not have been adjusted without intimation to the assessee. The claim of the assessee was also found to be correct with respect to dividend income by the learned CIT (A). In view of the above fact and submissions, we direct the learned Assessing Officer to allow the exemption of both these income and re-compute the total income of the assessee. In view of this, the appeal of the assessee is allowed.

05. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 15.11.2023.

Sd/-  
(KAVITHA RAJAGOPAL)  
(JUDICIAL MEMBER)

Sd/-  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 15.11.2023

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

True Copy//



Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai