

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI**

**BEFORE N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 2227/Del/2018
Asstt. Year 2015-16

Sports Authority of India, Jawahar Lal Nehru Stadium, Lodhi Road, New Delhi – 110 003 PAN AACTS4979C	Vs.	JCIT(E), Circle-2(1), New Delhi.
(Appellant)		(Respondent)

ITA No. 2454/Del/2018
Asstt. Year 2015-16

JCIT(E), Circle-2(1), New Delhi.	Vs.	Sports Authority of India, Jawahar Lal Nehru Stadium, Lodhi Road, New Delhi – 110 003 PAN AACTS4979C
(Appellant)		(Respondent)

Assessee by:	Shri Harshit Jain, Advocate Shri Akarsh Garg, Advocate
Department by :	Shri T. James, CIT-DR
Date of Hearing	01/11/2023
Date of pronouncement	14/12/2023

ORDER

PER ASTHA CHANDRA, JM

The cross appeal filed by the assessee and the Revenue arise out of the order dated 31.01.2018 of the Ld. Commissioner of Income Tax (Appeals)-40, Delhi (“**CIT(A)**”) pertaining to Assessment Year (“**AY**”) 2015-16.

2. The assessee has raised the following grounds of appeal:-

- “1. In rejecting application for rectification of income tax return erroneously filed by the previous counsel.*
- 2. In rejecting the claim of the appellant society under section 11 and 12 as claimed in the return of income.*
- 3. In treating the gross receipts of Rs 4,68,08,90,888/- (including government aid and grants to be the income of the appellant society.*
- 4. In disallowing entire expenditure (including capital expenditure) incurred by the appellant society in pursuance of its charitable objects duly as defined in section 2(15) of the Income Tax Act, 1961.*
- 5. The above grounds of appeal are independent and without prejudice to one another.”*

3. The grounds raised by the Revenue are as under:-

- “1. On the basis of facts and circumstances of the case and in law, whether the Ld. CIT(A) has erred in allowing the revenue expenditure since there is no mistake apparent from the record in the order and the entire income was rightly taxed as submitted by the assessee in the return of income for the relevant assessment year.*
- 2. On the basis of facts and circumstances of the case and in law, whether the Ld. CIT(A) has erred in allowing their revenue expenses ignoring the fact that the present appeal is against the order u/s154 passed by AO with respect to mistake apparent from record in the order u/s 143(1) of the Act as it tantamount to the scrutiny of expenses claimed which is against the provisions of law.*
- 3. On the basis of facts and circumstances of the case and in law, whether the Ld. CIT(A) was correct in law in giving such direction as the same tantamount to setting aside of the order u/s 143(1) and remand to the AO.*
- 4. The appellant craves leave to add, to alter or amend any ground of appeal raised above at the time of hearing.”*

4. It is a case of inadvertent mistake of the assessee.

5. In brief the facts are that the assessee is a society registered under the Societies Registration Act, 1860 and is under the Ministry of Youth Affairs

and Sports. It is registered under section 12AA of the Income Tax Act, 1961 **(the “Act”)** vide order dated 27.10.2011 w.e.f. AY 2000-2001. For AY 2015-16 the assessee filed its return on 28.09.2015 declaring nil income. The return was processed under section 143(1) of the Act and intimation was issued on 24.12.2016 wherein total income was computed at Rs. 4,68,08,90,890/- under the head ‘income from business’ as reported in the return denying the assessee’s claim made therein that the said gross total income was inclusive of Rs. 4,68,08,90,890/- referred to in section 11 and 12 and that the said amount was applied to charitable purposes. Accordingly, the tax payable was worked out.

6. On receipt of intimation under section 143(1) of the Act the assessee moved an application for rectification dated 19.06.2017 under section 154 of the Act before the Ld. Assessing Officer **(“AO”)** on 23.06.2017 stating therein inter alia as under:-

“Please note that the previous Chartered Accountant of the assessee Gupta Jalan & Associates have wrongly filed the receipts of Sports Authority of India under the head “Profits and Gains of Business or Profession” instead of “income from other sources”. This is a prima-facie error made by the CA while filing the return for AY 2015-16 as a result of which the computer system has raised demand. When the assessee came to know of the demand, it filed online rectification return. Later on the computer department of income tax referred the above case to AO.”

7. The Ld. AO rejected the assessee’s rectification application vide his order dated 29.09.2017 passed under section 154 r.w.s. 143(1) of the Act against which the assessee went in appeal before the Ld. CIT(A) who partly allowed the assessee’s ground No. 2 to 5 taken before him by observing in para 4.2 of the appellate order as under:-

“4.2 The appellant has shown income as business and been assessed as an AOP since exemption has been denied. Therefore, assessment has to be completed in accordance with other provisions of the Income-tax Act and as per the decisions above, after allowing the expenses as may be eligible. In view of the matter, there is a prima-facie case in favour of the appellant. The

Assessing Officer is directed to examine the same and grant appropriate relief as per law.”

8. The assessee as also the Revenue are aggrieved and both are in appeal before the Tribunal. All the grounds relate to their respective appeals.

9. We have heard the Ld. Representative of the parties and perused the records. The facts are not in dispute. The Ld. AR was candid enough to accept that mistake did occur in the ITR filed by the assessee in as much as the entire gross receipt was shown under the head ‘income from business or profession’ but it was an inadvertent mistake committed by the ex-CA of the assessee. None-the-less it is also a fact which cannot be denied by the Revenue that it was shown in the return that the said gross receipt was also the aggregate of income referred to in section 11 and 12 and that the entire said amount was applied to charitable purposes in India during the previous year. Our attention was drawn to the computation of total income placed at page 27 of the Paper Book which corroborates what has been stated above. It was the mistake of the ex-CA. The gross receipt ought to have been declared under the head “Income from other sources”. But by mistake of the ex-CA the same has been shown under the head “income from business or profession” in the computation of income as also in the return.

10. Intimation under section 143(1) (copy at page 44-49 of Paper Book) clearly reveals that the CPC ignored all other relevant information and proceeded to process the case by adopting the entire gross receipt as income of the assessee. We are of the view that even assuming that the case of the assessee falls under section 143(1)(a)(ii) which is the view of the Ld. CIT(A), the provision of the First proviso to section 143(1)(a) has altogether been ignored by the CPC/AO/CIT(A) which provides that no such adjustment shall be made unless an intimation is given to the assessee of such adjustment either in writing or in electronic mode. The Ld. AR contended that no such intimation was received by the assessee from CPC which fact could not be refuted by the Ld. CIT-DR.

11. It is not a matter of dispute that the assessee which is registered under section 12AA of the Act has been enjoying the benefit of section 11 of the Act in preceding AYs 2011-12, 2012-13 and 2014-15 as also in succeeding AYs 2016-17, 2017-18 and 2018-19 which is obvious from the chart giving the status of scrutiny assessment under section 143(3) of the Act appearing at page 52 of the Paper Book. There is thus material on record indicative of the fact that the assessee is eligible for exemption of its income in the AY 2015-16 as well but its claim of exemption for the AY 2015-16 presently under consideration has not been examined by the Ld. AO/CIT(A).

12. On the facts and in the circumstances of the assessee's case both the Ld. AR and the Ld. CIT-DR conceded that the matter be sent to the Ld. AO to verify the assessee's claim of exemption under section 11 and 12 based on its past history and the material on records and to decide the matter afresh. We, therefore, in the interest of natural justice set aside the impugned orders of the Ld.AO/CIT(A) and restore the matter back to the file of the Ld. AO for verification of the assessee's claim of exemption under section 11 and disposal afresh in accordance with law after allowing reasonable opportunity to the assessee to explain its case. We order accordingly.

13. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

14. Consequently, the appeal of the Revenue is dismissed as infructuous.

Order pronounced in the open court on 14th December, 2023.

sd/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER

sd/-
(ASTHA CHANDRA)
JUDICIAL MEMEBR

Dated: 14/12/2023

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Copy forwarded to-

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	