

**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.1010/Bang/2023
Assessment year : 2017-18

V.S. Educational Trust, No.16, V.S. Reddy Layout, Kadugodi, Bangalore -560 027. PAN: AABTV7079B	Vs.	The Income Tax Officer, Ward 4(2)(3), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Mr. Syed Ashraf Ahmed Nadeem Lasani, CA
Respondent by	:	Mr. Ganesh R. Ghale, Standing Counsel.

Date of hearing	:	02.01.2024
Date of Pronouncement	:	02.01.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the DIN & Order No.ITBA/NFAC/S/250/2023-24/1056954936(1) dated 10.10.2023 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2017-18 on the following grounds:-

“1] Under the facts and circumstances of the case The Learned CIT(A) has erred in passing the ex parte Order under section 250 of the Income Tax Act, 1961.

2] Under the facts and circumstances of the case The Learned CIT(A) has erred in law as well as on fact in confirming the Order of Assessment passed by the Ld. Assessing Officer under section 144 of the Income Tax Act, 1961.

3] The Appellant craves the permission to add, alter, amend or delete any of the above Grounds of Appeal before or at the time of hearing.”

2. The brief facts of the case are that the assessee is an educational institution and filed return of income on 31.3.2018 declaring NIL income in ITR-5 offering income of entire receipts under the head income from other sources and claimed expenditure u/s. 57 of the Act. The case was selected for scrutiny and statutory notices were issued to the assessee. The assessee did not respond to any of the notices issued, therefore the AO completed the assessment u/s. 144 of the Act and assessed income at Rs.49,29,881. On appeal before the CIT(Appeals) also, the assessee did not comply with the notices, therefore the order of the AO was confirmed and appeal of the assessee was dismissed. Aggrieved, the assessee is in appeal before the Tribunal.

3. The Id. AR submitted that due to wrong advise the assessee filed return in ITR-5 which is not applicable to the assessee and claimed the entire Income & Expenditure under the head income from other sources. Notices were issued by the AO on the email id – chakravarthytrr@gmail.com which belongs to the auditors, therefore there was no response from the appellant. The CIT(Appeals) also issued notices which remained unresponded because it was not in the knowledge of the assessee. He submitted that the non-response of the assessee to the notices issued by the lower authorities was

unintentional and inadvertent and submitted that if a chance is given, the assessee will comply with the notices of the revenue authorities and substantiate its case.

4. On the other hand, the Id. DR relied on the orders of the revenue authorities and submitted that the AO provided various opportunities for which the assessee did not respond before the AO as well as the CIT(Appeals). Therefore, the authorities were bound to pass the ex parte order on the basis of material available with them and he objected to giving another chance to the assessee.

5. Considering the rival submissions, we note that the assessee is an educational institution and filed its return of income in ITR-5 declaring NIL income. The total expenditure declared in the computation of income is Rs.49,29,881 and income is Rs.40,52,288, resultantly there is a loss of Rs.8,77,596. The notices issued by the AO were sent to the auditors emailed and the assessee could not respond. However, due to non-representation of the assessee, the AO disallowed the entire expenditure and completed the assessment. Before the CIT(Appeals), the assessee could not respond to the notices. During the course of hearing, the Id. AR agreed to payment of costs of Rs.10,000/- and in the interest of justice, we remit the issue to the AO for fresh consideration. Accordingly we restore the case to the Assessing Officer for de novo consideration and decision as per law, after reasonable opportunity to the assessee. The assessee will file proof of payment of costs before the Assessing Officer to initiate fresh

assessment proceedings. The assessee is directed to comply with the notices issued by the revenue authorities and also intimate the email-id / communication address and telephone/mobile no. of the assessee to the department. The assessee is also directed not to seek unnecessary adjournment for early disposal of the case.

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

Pronounced in the open court on this 2nd day of January, 2024.

Sd/-
(GEORGE GEORGE K.)
VICE PRESIDENT

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 02nd January, 2024.

/Desai S Murthy/

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.