

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B', NEW DELHI**

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

ITA No.1507/Del/2020  
Assessment Year: 2014-15

|   |            |   |
|---|------------|---|
| <b>Gold Field Shiksha<br/>Sansthan, 703, Krystal<br/>Apartments, Sec-48,<br/>Faridabad, Haryana<br/>PAN No.AAATG5277D</b> | <b>Vs.</b> | <b>DCIT<br/>Circle-2<br/>(Exemption)<br/>Chandigarh</b> |
| <b>(APPELLANT)</b>  |            | <b>(RESPONDENT)</b>                                     |

|               |  |
|---------------|--|
| Appellant by  | Sh. Ved Jain, Advocate<br>Ms. Uma Upadhyay, CA |
| Respondent by | Sh. T. James Singson, CIT DR                   |

|                        |            |
|------------------------|------------|
| Date of hearing:       | 30/11/2023 |
| Date of Pronouncement: | 13/02/2024 |

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the assessee is preferred against the order of the CIT(A), Faridabad dated 27.12.2019 pertaining to A.Y. 2014-15.

2. The grievance of the assessee read as under :-

*1. That the Ld. Commissioner of Income Tax (Appeals), Faridabad has grossly erred in law and on facts in passing the impugned order*

*dated 24.12.2019 by dismissing the appeal of the appellant ex-parte, violating the principles of natural justice.*

*2. That the Ld. CIT (Appeals), Faridabad erred in law and on facts in rejecting the adjournment applications without properly appreciating the reasons which necessitated the request for adjournment by the appellant.*

*3. That the Ld. CIT (Appeals), Faridabad erred in confirming the action of AO of making addition of Rs. 1,00,00,000/- treating it as unexplained credit u/s 68 of the Income Tax Act 1961, by holding that Corpus donation received from Quadeye Securities (P) Ltd. is accommodation entry.*

*4. That the Ld. CIT (Appeals), Faridabad erred in relying upon the material/statement of a third party which were collected/recorded by the CIT (Exemptions), Calcutta without allowing opportunity of cross examination to the appellant.*

*5. That the Ld. CIT (Appeals), Faridabad erred both in law and on facts in upholding the order of assessment at an income of Rs. 28,79,46,589/- as against the returned income of Rs. Nil in an order of assessment dated 27.12.2016 u/s 143(3) of the Income tax Act, 1961.*

*6. That the Ld. CIT (Appeals), Faridabad erred in confirming the action of AO of treating the receipt of corpus donation of Rs. 17,56,04,562/- as voluntary contribution on the basis of suspicion and surmises without giving any reasonable opportunity to the appellant to show cause.*

*7. That the Ld. CIT (Appeals), Faridabad erred both in law and on facts in confirming the action of AO denying the exemption u/s 11/12 of the Income Tax Act, 1961 to the appellant without giving any meaningful opportunity to the appellant to show cause.*

*8. That the Ld. CIT (Appeals), Faridabad erred both in law and on facts in confirming the action of AO alleging that the appellant is running medical college and hospital on commercial basis.*

*9. That on the facts and circumstances of the case, the learned Assessing Officer has erred both on facts and in law in charging interest under section 234 of the Income Tax Act.*

*10. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.*

3. Briefly stated the facts of the case are that the assessee is a society registered by Registrar of society, Faridabad. During the course of the scrutiny assessment proceedings the AO noticed that the assessee has filed its return of income on 30.09.2014. On perusal of the financial statement the AO noticed that the assessee has total income at Rs.936590428/-. The assessee is engaged in running of the hospital alongwith school with the name of Green Field Shiksha Sansthan.

4. On scrutiny of the accounts the AO formed a belief that the assessee has been engaged in converting its unaccounted cash as

corpus donation which has been provided by one of the donor. The AO was of the opinion that the assessee has engaged in activity which is deprived of any charitable intent. The AO also observed that running a medical college on commercial basis wherein the sale of medicines and other medical services are based on market driven prices. Considering the activity of the assessee society to be non charitable in nature the exemption granted u/s. 11/12 was denied and the assessee was assessed as under :-

|  |                            |
|--|----------------------------|
| Total Fees   | Rs. 92,78,53,880/-         |
| Add Corpus donation treated as voluntary Contribution (excluding Rs.1 Crore Which has been added u/s 68 of I.T.Act ) | <u>Rs. 17,56,04,562/-</u>  |
| Total Income   | <u>Rs.1,10,34,58,442/-</u> |
| Less revenue expenses as claimed   | Rs. 81,55,11,853/-         |
| Expenses towards Capital assets not Allowed as exemption u/s 11/12 is not allowed to assessee                        | Nil                        |
| Income over Expenditure  | <u>Rs. 28,79,46,589/-</u>  |

*As regards Rs.1 Crore which has been proved to be accommodation entry are made u/s. 68 of the I.T. Act in the hands of the assessee. As exemption u/s. 11/12 is denied no benefit of capital expenditure is allowable. The assessment is completed on total income of Rs.28,79,46,589/- as income liable to be assessed as income from other sources. Plus addition of Rs. 1 Crore u/s. 68 of the Act is made over this income. The assessment is completed on total income of Rs.29,79,46,589/-.*

5. Assessee carried the matter before the CIT(A) without any success.

6. Before us the Counsel for the assessee vehemently stated that the CIT(A) denied the applications seeking adjournment and decided the appeal exparte. It is the say of the Counsel that without affording a reasonable and adequate opportunity the appeal has been decided. The Counsel further stated that given a chance the assessee will furnish all the necessary details to claim exemption. The DR strongly supported the findings of the AO and pointed out that the CIT(A) had given several opportunities before deciding the appeal.

7. We have carefully considered the orders of the authorities below. The details of the opportunities provided to the assessee can be understood from the following chart :-

| <b><u>Date</u></b> | <b><u>Event</u></b>  |
|--------------------|--|
| 11.09.2018         | <i>Notice u/s.250 was issued for 15.10.2018 via e-mail and speed post.</i>   |
| 15.10.2018         | <i>None attended nor any written submissions were filed.</i>   |
| 29.10.2018         | <i>Fresh notice u/s 250 was issued for 15.11.2018 through email and speed post.</i>  |
| 15.11.2018         | <i>Sh. Ravinder Ratra, CA attended and filed POA and requested for adjournment and the case was adjourned to 03.12.2018,</i> |

03.12.2018 Sh. Ravinder Ratra, CA attended and filed letter for adjournment. The case was adjourned to 07.01.2019.

07.01.2019 Sh. Ravinder Ratra, CA attended and filed again letter for adjournment. The case was adjourned to 22.01.2019.

22.01.2019 Sh. Ravinder Ratra, CA attended and filed letter for adjournment. The case was adjourned to 28.01.2019.

28.01.2019. On request case was adjourned to 05.03.2019.

05.03.2019 Sh. Ravinder Ratra, CA attended and filed letter for adjournment. The case was adjourned to 22.03.2019.

22.03.2019 On request case adjourned to 22.04.2019,

22.04.2019 On request case adjourned to 15.05.2019.

06.08.2019 Fresh notice u/s 250 was issued for 22.08.2019 via email a speed post.

22.08.2019 None attended nor any written submissions were filed.

02.09.2019 Another notice u/s 250 was issued for 19.09.2019 via e and speed post.

19.09.2019 On request the case was adjourned to 10.10.2019.

10.10.2019 None attended nor any written submissions were fled.

*18.10.2019 Fresh notice u/s. 250 was issued for 11.11.2019 via email and speed post*

*23.10.2019 The notice was returned back with the remarks of the postal department that*

*11.11.2019 None attend nor any written submissions were filed.*

*16.12.2019 Request letter for adjournment was received via email.*

8. It can be seen from the above chart that though the assessee was given opportunity but for some reason it took adjournment and ultimately the CIT(A) had to dismiss the appeal.

9. We have gone through the documents filed in the form of paper book. We find that the assessee society has been allowed exemption since A.Y. 2009-10 to A.Y. 2017-18. We find that though the assessment for A.Y. 2017-18 to A.Y. 2021-22 have been done through processing u/s. 143 (1) of the Act but the assessments for A.Y.2009-10 to A.Y. 2012-13 were done u/s. 143 (3) of the Act after thorough scrutiny. Since the assessee has been doing what it is doing since past many years no adverse inference was drawn, therefore, we are of the considered view that if the assessee gets a proper opportunity to defend its case it will be in furtherance of principle of natural justice. Therefore, we restore the issue to the files of the CIT(A). The CIT(A) is directed to decide the appeal afresh after affording reasonable and adequate opportunity of being heard to the assessee and after considering the past assessment history of the assessee.

10. In the result, the appeal is allowed for statistical purpose.

11. Vide additional ground the assessee has challenged the validity of the assessment order claiming that it is without DIN.

12. In the light of the decision of the Hon'ble Supreme Court in the case of Brandix Mauritius this issue is kept open and is not adjudicated now.

**Order pronounced in the open court on 13.02.2024.**

**Sd/-  
(ASTHA CHANDRA)  
JUDICIAL MEMBRE**

**Sd/-  
(N.K. BILLAIYA)  
ACCOUNTANT MEMBER**

\*NEHA\*

Date:- .02.2024

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI