

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD**

BEFORE
SHRI RAMA KANTA PANDA, VICE PRESIDENT
&
SHRI LALIET KUMAR, JUDICIAL MEMBER

आ.अपी.सं/ITA No. 547/Hyd/2023
(निर्धारण वर्ष/Assessment Year: 2018-19)

Shilparamam Arts, Crafts & Cultural Society,
Hyderabad
[PAN No. AAAAS9711R]

Vs. Income Tax Officer,
Exemption Circle-1(1),
Hyderabad

अपीलार्थी/Appellant

प्रत्यर्थी/Respondent

निर्धारिती द्वारा/Assessee by: Shri Y.V. Bhanu Narayan Rao, AR
राजस्व द्वारा/Revenue by: Shri N. Raja Kumar, DR

सुनवाई की तारीख/Date of hearing: 21/02/2024
घोषणा की तारीख/Pronouncement on: 21/02/2024

आदेश / **ORDER**

PER LALIET KUMAR, J.M:

This is an appeal filed by the assessee against the order dated 12-05-2023 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), for the assessment year 2018-19.

2. Facts of the case in brief are that assessee, M/s. Shilparamam Arts Crafts and Cultural Society is a registered Government Society under the provisions of section 12A of the

Income Tax Act, 1961 (for short “the Act”) and working under Youth Advancement Tourism and Culture Department (YAT & C), Government of Telangana State. Assessee society was established with the objects of promotion of Art & Culture and providing support to artists and artisans by the United State of Andhra Pradesh. The receipts of the society are related to grants from Governments, entry fees, stall rents, lease rentals, royalty fees, venue bookings, parking fees and other miscellaneous income.

3. For the AY. 2018-19, assessee society filed its return of income u/s. 139 of the Act by admitting taxable income as NIL and claimed a refund of Rs. 53,14,200/- (i.e., TDS of Rs. 52,96,167/-and TCS of Rs.18,036/-). Subsequently, the said return was selected for scrutiny and a notice u/s. 143(2) of the Act was issued with reference to large amount of income accumulated or set apart by the society and for claiming of high refund. Later on, assessee furnished required information. Assessing Officer by order dt. 26/04/2021, completed the assessment u/s. 143(3) r.w.s. 144B of the Act, by making an addition of Rs. 1,68,74,118/- towards disallowance of depreciation.

4. Aggrieved, assessee preferred appeal before the CIT(A). During the course of first appellate proceedings, learned CIT(A) dismissed the appeal of assessee, giving a finding that – *keeping in view fact that the appellant has not established that the assets on which depreciation has been claimed were not purchased from the accumulated fund of the trust. Hence, the AO has rightly disallowed the depreciation and the same is upheld. thus, the appeal of the appellant is dismissed.*

5. Aggrieved, assessee preferred this appeal before us, raising grounds, mainly on confirming the addition by the learned CIT(A).

6. During the course of arguments before us, learned AR submitted that learned CIT(A) erred by upholding the addition of Rs. 1,68,74,118/- erroneously made by the Assessing Officer, ignoring the submissions made by the assessee society that it has been consistently following the accounting procedure wherein depreciation is claimed as application of income only on those fixed assets, which have not been claimed as application of income only on those fixed assets which have not been claimed as application of income earlier/for the year. It was further contended by learned AR that learned CIT(A) erred by upholding the order passed by the Assessing Officer, who disallowed the depreciation by travelling beyond the reason for which the return of income filed for the AY. 2018-19 was selected for scrutiny through CASS on account of large amount of income accumulated or set apart by the society and high refund claimed. Finally learned AR argued that learned CIT(A) failed take into consideration the submissions of the assessee society that it has been consistently following the accounting procedure wherein depreciation is claimed only on the fixed assets, which are not claimed as application of income and no depreciation is claimed on those fixed assets which have been claimed; and also the fact that the same was accepted by the Department in the earlier assessment years. Hence, the learned AR prayed the Bench to delete the addition so made.

7. Per contra, learned DR while placing heavy reliance on the findings of the authorities, argued that the addition made and sustained were quite justifiable and no interference with

the same is necessary. Hence, vehemently opposed the contentions raised on behalf of the assessee.

8. We have heard both the parties and perused the material available on record. It is a fact that at the time of finalising the assessment proceedings, Assessing Officer disallowed the depreciation of Rs. 1,68,74,118/- and the same has been confirmed by the learned CIT(A). we have also considered the arguments raised on behalf of the assessee that learned CIT(A) failed take into consideration the submissions of the assessee society that it has been consistently following the accounting procedure wherein depreciation is claimed only on the fixed assets, which are not claimed as application of income and no depreciation was claimed on said fixed assets which have been claimed as capital expenditure and the same was also accepted by the Department in the earlier assessment years. We also observed from the order of the learned CIT(A) that the assessee failed to establish that the assets on which depreciation has been claimed, were not purchased from the accumulated fund of the trust. In fact the assessee had filed documents before us, which were part of earlier assessment records, to show that details of assets were available on record on which assessee had never claimed utilization of capital expenditure. It was submitted that no fresh application for admission of documents was filed as these documents were part of assessment/ITR annexure.

9. In these circumstances, we are of the opinion that giving an opportunity to the assessee to produce all the relevant documents before the Assessing Officer for fact verification would meet the ends of justice. We set aside the orders of the authorities below and restore the issue to the file of the

Assessing Officer with a direction to decide the same afresh, after giving an opportunity of being heard to the assessee. Grounds are accordingly treated as allowed for statistical purposes.

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

Order pronounced in the open court on 21st day of February, 2024.

Sd/-
(RAMA KANTA PANDA)
VICE PRESIDENT

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad,
Dated: 21/02/2024

TNMM

Copy forwarded to:

1. *Shilparamam Arts, Crafts & Cultural Society, Survey No. 64M, Shilparamam, Madhapur, Hyderabad.*
2. *The Income Tax Officer, Exemption Circle-1(1), Hyderabad.*
3. *Pr.CIT, Hyderabad.*
4. *DR, ITAT, Hyderabad.*
5. *GUARD FILE*

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ASSISTANT REGISTRAR
ITAT, HYDERABAD