

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B", MUMBAI
BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER

ITA No. 2057/Mum/2023 (A.Y.2017-18)

**Bhagwan Shree Shankeshwar
Parshavanath Jain Derasar Trust**

Ground Floor, Ratnadeep
Building C.H.S. Ltd. 60 feet
Road, Bhayandar (W), Thane,
Maharashtra-401 101

PAN: AABTB1564D

..... Appellant

Vs.

ACIT/JCIT/DCIT/ITO/NFAC Delhi

..... Respondent

Appellant by : None
Respondent by : Shri Ashok Kumar Ambastha, Ld. DR

Date of hearing : 14/12/2023
Date of pronouncement : 26/02/2024

ORDER

PER GAGAN GOYAL, A.M:

This appeal by assessee is directed against the order of National Faceless Appeal Centre (for short "NFAC"), Delhi dated 21.03.2023 u/s. 250 of the Income Tax Act, 1961 (in short 'the Act') for A.Y. 2017-18. The assessee has raised the following grounds of appeal:-

A) Penalty u/s. 270A - Rs. 4,76,200/-

1) The learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] erred on facts and in law in confirming the order passed by the Additional/Joint/Deputy/Assistant Commissioner of Income Tax/Income Tax Officer, National Faceless Assessment Centre, Delhi (AO) u / s 270A levying a penalty of Rs. 4,76,200/- on the appellant.

2) The learned CIT(A) and the AO failed to appreciate that the appellant had no mis-reported its income, which would justify a penalty of Rs. 4,76,200/- on the appellant.

3) The appellant prays that the penalty of Rs. 4, 76,200/- levied by the AO u/s. 270A and confirmed by the CIT (A) may be deleted.

B) General

4) The above grounds of appeal are without prejudice to one another and the appellant craves leave to add, alter, amend, delete or modify any of the above grounds of appeal.

2. Brief facts of the case are that the assessee is a trust that filed its return of income on 31-03-2018 declaring total income at Rs. 3,34,630/-. The case of the assessee was selected for scrutiny and notice u/s. 143(2) of the Act was issued on 13-08-2018. During the assessment proceedings, it was revealed that the assessee is not an entity registered u/s. 12A of the Act; hence same was treated as an AOP. During the year consideration, the assessee has shown an income of Rs. 29,06,084/- against the expenditure incurred of Rs. 21,35,539/-, resulting in a surplus of Rs. 7,70,546/-. As a benefit under section 12A of the Act can't be provided to the assessee, income for Tax was taken at Rs. 7,70,546/- and penalty proceedings were initiated u/s. 270A of the Act.

3. Thereafter, AO proceeded with penalty proceedings and a penalty @ 200% on the amount of tax applicable on misreported income amounting to Rs. 4, 76,200/- was imposed. Assessee being aggrieved with this order of AO preferred an appeal before the Ld. CIT (A), who in turn confirmed the order of AO. Assessee being further aggrieved preferred the present appeal before us.

4. We have gone through the order of AO passed u/s. 143(3) and 270A of the Act, Order of Ld. CIT(A) passed u/s. 250 of the Act and submissions of the Assessee. It is also observed that the appeal filed by the assessee is time-barred by almost 21 days, this fact is there on record and duly communicated to the assessee. The case of the assessee was neither attended by any of its authorized representatives nor any written submission along with an application for condonation of delay filed. This is 3rd time the matter was fixed before the bench, but none appeared. In these circumstances, as technically also matter is not eligible for hearing as the delay was neither justified by the assessee nor condoned by the bench, we dismiss the appeal of the assessee, with the liberty that the assessee can file an M.A. along with an application for condonation of delay. **Because of the above grounds raised by the assessee are dismissed.**

5. **In the result, the appeal of the assessee is dismissed.**

Order pronounced in the open court on 26th day of February, 2024.

Sd/-

(KULDIP SINGH)

JUDICIAL MEMBER

Mumbai, दिनांक/Dated: 26/02/2024

Sr. PS (Dhananjay)

Sd/-

(GAGAN GOYAL)

ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai