

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

**Before Sh. Kul Bharat, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 851/Del/2023 : Asstt. Year : 2017-18**

**ITA No. 852/Del/2023 : Asstt. Year : 2018-19**

Fantex Educational Society, Plot No. 127, Sanjay Colony, Sector-23, Faridabad, Haryana-121005	Vs.	Income Tax Officer, Exemption Ward, Faridabad, Haryana-121001
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAAAF1315Q</b>		

**Assessee by : None**

**Revenue by : Sh. Vivek K. UPadhyay, Sr. DR**

**Date of Hearing: 13.03.2024**

**Date of Pronouncement: 15.03.2024**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeals have been filed by the assessee against the orders of National Faceless Appeal Centre (NFAC), Delhi dated 30.01.2023.

2. Since, the issue involved in both the appeals are similar, they were heard together and being adjudicated by a common order. In 851/Del/2023, following grounds have been raised by the assessee:

*"1. On the facts and in the circumstances of the case and in law the NFAC erred in treating the society formed under the Societies Registration Act, 1860 as AOP taxable at maximum marginal rate of tax without appreciating the provisions of Section 167B.*

*2. On the facts and in the circumstances of the case and in law the NFAC erred in passing the order under section 250*

*without considering the submission made by the appellant on 20.01.2023.*

*3. The appellant prays that the liability of Rs.43,297/- made in respect of income tax and interest thereon, on the income of Rs.1,09,970/- be deleted."*

3. We have perused the material available on record.

4. At the outset, it was brought to our notice that the assessee has been taxed at marginal rate of tax without appreciating the provisions of Section 167B of the Income Tax Act, 1961 by treating the assessee has AOP. It was submitted that the CPC did not examine the issue status of the assessee.

5. Hence, in the interest of justice, we remand the matter to the file of JAO to ascertain the status and compute the tax accordingly.

6. In the result, the appeals of the assessee are allowed for statistical purpose.

Order Pronounced in the Open Court on 15/03/2024.

Sd/-

**(Kul Bharat)**  
**Judicial Member**

**Dated: 15/03/2024**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**