

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.76/Bang/2024
Assessment year : 2021-22

The Income Tax Officer (Exemptions), Ward 1, Mangalore – 575 001.	Vs.	Shri Mahalingeshwara Temple, Temple Buildings, Main Road, Puttur – 574 201. <b>PAN: AAKTS 4964R</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>

Appellant by	:	Shri Sandeep Kumar, H.S., Addl. CIT(DR)(ITAT), Bengaluru.
Respondent by	:	None.

Date of hearing	:	13.03.2024
Date of Pronouncement	:	22.03.2024

**ORDER**

*Per Laxmi Prasad Sahu, Accountant Member*

This appeal is filed by the revenue against the DIN & Order No.ITBA/NFAC/S/250/2023-24/1057972912(1) dated 15.11.2023 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2021-22.

2. The only issue raised by the revenue is that the CIT(Appeals) erred in allowing the deduction claimed u/s. 11 of the Act to the assessee without appreciating that the audit report in Form 10B was filed beyond the due date of filing of return of income.

3. The brief facts of the case are that the assessee filed return of income on 11.01.2022 declaring NIL income. The due date for filing return was 15.03.2022. The auditor filed Form 10B in the website on 11.01.2022 which was approved by the assessee on 28.02.2022. The return was processed u/s. 143(1) on 13.10.2022. Later on it was noticed that exemption u/s. 11 has wrongly been allowed to the assessee because of not filing Form 10B and the return processed u/s 143(1) was rectified denying exemption claimed by the assessee and after adjusting TDS, the total tax payable was determined at Rs.1,34,10,340.

4. The assessee filed appeal before the CIT(Appeals) and the after considering the submissions of the assessee and the details such as order u/s. 12A, Form 10AC, Form 10B and ITR-dated 11.1.2022, the CIT(Appeals) allowed the appeal of the assessee deleting the entire addition of Rs.2,83,88,865. Aggrieved by the order of the CIT(Appeals), the revenue is in appeal before the ITAT.

5. The case was heard qua the assessee. The ld. DR relied on the order passed u/s. 154 and submitted that Form 10B which is the audit report was filed beyond the due date of filing return of income on 15.03.2022 and the CIT(A) wrongly allowed exemption u/s. 11 without appreciating that the audit report was approved by the assessee on 28.02.2022.

6. Considering the submissions of the ld. DR, we note that the assessee filed ITR-7 and Form 10B on 11.01.2022. The due date for filing return was 15.03.2022. However, the assessee approved the

audit report in Form 10B uploaded by the auditor on 28.02.2022 before processing the return u/s. 143(1) on 13.10.2022. We also note from the submissions made by the assessee before the CIT(A) that the assessee being a State Govt. department managing the temples, the Executive Officers are appointed by the Govt. and during the filing of return of income, the assessee did not have a regular Executive Officer and Chief Executive Officer of Puttur Taluk Panchayath was officiating as In-charge Executive Officer. Hence there was delay and the assessee approved the audit report on 28.02.2022 which was filed by the auditors on 11.01.2022. Therefore it would be deemed that the audit report was approved on the date of uploading the audit report by the auditor. We further note that the audit report was approved before processing the return of income. Therefore the rectification order suo motu passed by the CPC is not correct and the CIT(Appeals) has rightly allowed the appeal of the assessee. There is no infirmity in the order of the CIT(Appeals). We rely on the order of the coordinate Bench of the Tribunal in the case of S.M.K.R. Vashi High School reported in (2023) 157 taxmann.com 702 (Surat Trib.).

7. In the result, the appeal by the revenue is dismissed.

Pronounced in the open court on this 22<sup>nd</sup> day of March, 2024.

Sd/-  
( GEORGE GEORGE K. )  
VICE PRESIDENT

Sd/-  
(LAXMI PRASAD SAHU )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 22<sup>nd</sup> March, 2024.

*/Desai S Murthy /*

Copy to:

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

By order

Assistant Registrar  
ITAT, Bangalore.