

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE 'A' BENCHES :: PUNE

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER &
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No.111/PUN/2024
(A.Y. 2018-19)

Al-Jadeed Social Welfare Association, At Post Hangarga, Nal, Tal. Tuljapur, Dist. Osmanabad-413602 PAN: AABTA 3186 G	vs	ITO, Ward-Exemption, Pune.
Appellant		Respondent

Assessee by	:	Shri Nitin Rander, CA
Revenue by	:	Shri Umesh Phade, DR
Date of hearing	:	19/03/2024
Date of pronouncement	:	19/03/2024

ORDER

Per PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the assessee emanates from the order of National Faceless Appeal Centre [NFAC], Delhi, dated 28.11.2023 for A.Y.2018-19 as per the following grounds of appeal:-

- "1. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in holding that the delay in filing the appeal cannot be condoned. The appellant prays that the delay be condoned and appeal be taken up for hearing.
2. On the facts and in the circumstances of the case and in law, the Id. AO and Id. CIT(A) ought to have held that the assessee is a charitable trust registered u/sec. 12A and u/sec. 80G of the Income Tax Act, 1961 (Act) and accordingly, eligible for claim of exemption u/sec. 11 of the Act.
3. On the facts and in the circumstances of the case and in law, the Id. AO erred in disallowing the claim of Rs. 86,18,109/- towards application of income u/sec. 11 of the Act.
4. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in not deciding the issue on merits and not allowing the application of income on objects of the Trust u/sec. 11 of Rs. 86,18,109/- and thereby treating the same as income of the appellant.

5. *Without prejudice to above grounds of appeal, the Id. Authorities erred in not allowing the income of the assessee, being an educational institution substantially financed by State Government, is eligible for exemption u/sec. 10(23C)(iiiab) of the Act."*

2. In this case, before the NFAC there was a delay of 211 days for filing of the appeal by the assessee. That, as evident in the order of NFAC itself, there is mention of the affidavit which was filed by the assessee requesting for condonation of delay. In the said affidavit, it has been mentioned that such delay was caused due to change of Secretary of the applicant-trust and another reason was that the previous working Secretary, who had the prime responsibility for communications regarding any matter, received on his registered e-mail ID, had not communicated the relevant communication from the Department. At para 10.32 of the NFAC's order, it can be seen that NFAC was not convinced with the explanation of delay that was submitted by the assessee and hence, the appeal was dismissed.

3. At the time of hearing, under the given facts and circumstances, Id.AR was directed by the Bench to file an affidavit of the present working Secretary regarding when actually he had started taking the responsibility of the trust and also an affidavit from the erstwhile working Secretary since the delay before the NFAC has been attributed for non-communication by the erstwhile working Secretary of the applicant-trust before NFAC for explaining the delay in filing of the appeal. We are, therefore, of the considered view that the NFAC after

going through these affidavits and examining other documents on record shall form an opinion regarding the condonation of delay of 211 days and pass a speaking order as per law. In view thereof, we set aside the order of NFAC and remand the matter back to its file for *de novo* adjudication after considering the condonation of delay petition filed by the assessee along with all the necessary affidavits as aforestated complying with the principles of natural justice. The assessee is also directed to file all relevant details and evidences explaining the delay caused in filing the appeal before the NFAC.

4. As per the aforestated terms, the grounds of appeal are allowed for statistical purposes.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in open Court on 19th March, 2024.

Sd/-
(DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated :19th March, 2024

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(E), Pune.
4. The DR, ITAT, "A" Bench Pune.
5. Guard File.

By Order

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.