

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B" DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.2575/DEL/2023
Assessment Year 2016-17

Holy Angels Public School Samiti Near Kavinagar Police Station, Kavinagar Ghaziabad, Uttar Pradesh	Vs.	ITO, Exemption Ward Ghaziabad, Uttar Pradesh
TAN/PAN: AAATH4696K		
(Appellant)		(Respondent)

Appellant by:	Ms. Sweety Kothari, CA		
Respondent by:	Shri Vivek Kumar Upadhyay, Sr.DR		
Date of hearing:	20	03	2024
Date of pronouncement:	22	03	2024

ORDER

PER PRADIP KUMAR KEDIA-AM:

The captioned appeal is directed against the first appellate order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ('CIT(A)' in short) dated 11.07.2023 arising from the assessment order dated 18.12.2018 passed by the Assessing Officer (AO) under Section 144 of the Income Tax Act, 1961 (the Act) concerning AY 2016-17.

2. As per the grounds of appeal, the assessee has challenged the denial of exemption under Sections 11 and 12 on certain amount and has also raised certain other grounds.

3. At the time of hearing, the Id. counsel for the assessee straightaway pointed out that the appeal of the assessee has been adjudicated *ex-parte* by the CIT(A) on the ground that assessee has failed to respond to the various notices issued towards date of hearing. In the matter, the Id. counsel for the assessee pointed out that the last notice of hearing was issued on 06.07.2023 whereby the date of hearing was fixed on 14.07.2023. Before the date of hearing, first appellate order under Section 250 of the Act was passed on 11.7.2023. Thus, the opportunity made available by the show cause notice was denied by passing the order before the expiry of the time made available in the show cause notice. The Id. counsel thus submitted that the first appellate order passed by the Id. CIT(A) grossly offends the principles of natural justice.

4. We find *prima facie* merit in the plea of the assessee. It is evident from the first appellate order that the assessee was entitled to appear upto 14.07.2023. Thus, the first appellate order could not have been passed before the expiry of such time limit made available to the assessee. The first appellate order passed is thus in violation of principles of natural justice resulting in miscarriage of justice. We therefore set aside the order of the CIT(A) and restore the matter back to the file of the CIT(A) for fresh adjudication in accordance with law after giving proper opportunity to the assessee in this regard.

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

Order pronounced in the open Court on 22/03/2024

Sd/-

**[KUL BHARAT]
JUDICIAL MEMBER**

DATED: /03/2024

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**