

**IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI**

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA Nos. 2448,2450,2451, 2452 & 2454/Mum/2023
(A.Ys. 2012-13 to 2016-17)**

Junior Chamber International India 506, Windfall Sahar Plaza, J.B. Nagar Near Chakala Metro Station, Andheri Maharashtra – 400059	Vs.	Income Tax Officer (Exemption)-1(4) 6 th Floor, MTNL Tel. Ex. Building, Cumballa Hills, Pedder Road, Maharashtra - 400026
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No:AAATI1215P		
Appellant	..	Respondent

Appellant by :	Ms. Chaitee Londhe & Ms. Pallavi Limye
Respondent by :	Ankush Kapoor

Date of Hearing	18.03.2024
Date of Pronouncement	20.03.2024

आदेश / O R D E R

Per Bench:

All these 5 appeals for AYs 2012-13 to 2016-17 are directed the different orders of ld. CIT(A) passed u/s 250 of the Act. Since, all these appeals are based on similar issue and identical facts, therefore, for the sake of convenience all these appeals are adjudicated together by taking ITA No. 2450/Mum/2023 as a lead case and its finding shall be applied mutatis mutandis to the other appeals wherever it is applicable.

ITA No. 2450/Mum/2023

- “1. The learned Commissioner of Income Tax (Appeals) [CIT(A)] erred in dismissing the appeal filed by the appellant without taking cognizance of the submissions made by the appellant and consequently upholding the aggregate addition of Rs.53,04,334/- made by the assessing officer.

2. *The learned CIT(A) erred in facts and in law in passing the impugned order in violation of the principle of natural justice.*
3. *The learned CIT(A) erred in not deleting the aggregate addition of Rs.53,04,334/-.*
4. *The learned CIT(A) erred in facts and in law in not appreciating that once the objects of the trust are held to be charitable and registration under section 12A of the Income Tax Act, 1961 (the Act) is granted, the assessing officer cannot ignore the same and hold that the assessee is a mutual organisation and that the objects of the appellant are not charitable.*
5. *The learned CIT(A) erred in facts and in law in not appreciating that the hon'ble Income Tax Appellate Tribunal (ITAT) in appellant's own case for assessment year 2011-12 has held that the appellant has to be assessed as a charitable organisation under section 11 of the Act and not as a mutual association.*
6. *The Appellant craves leave to add alter or amend any of the grounds of appeal at any time before or at the time of hearing."*

2. The fact in brief is that return of income declaring nil income was filed on 27.09.2012 along with the income and expenditure account, balance sheet and audit report in the form no. 10B. The case was subject to scrutiny assessment and notice u/s 143(2) of the Act was issued on 27.09.2013. The assessee is a trust registered with charity Commissioner under Bombay Public Trust Act and registered u/s 12A of the Income Tax Act with the Director of Income Tax (Exemption), Mumbai.

3. During the course of assessment proceedings the assessing officer observed that the activities of the assessee were in the nature of trade, commerce, business. On query the assessee explained that the main object of the assessee trust was youth development in nation building and all their activities were educational, therefore, assessee was entitled for claim of exemption u/s 11 of the Act. The AO has also referred the object of the assessee trust as per Memorandum of Association submitted by the assessee. The purpose of the assessee based on the declaration of principles is to contribute to the advancement of the

Global Community by providing an opportunity for young people to develop their leadership, skills, social responsibility entrepreneurship and fellowship that necessarily creates positive charges. However, the assessing officer was of the view that the assessee was a mutual association and not a charitable one, therefore, he has applied the doctrine of mutuality and treated the assessee's receipt from non-members and other sources such as interest income, sponsorship and royalty etc, as income of the assessee during the year under consideration. During the year under consideration the assessee has shown interest income of Rs.34,31,834/- sponsorship of Rs.18,35,000/- and royalty received of Rs.37,500/- totalling to Rs.53,04,334/- and in view of the reason discussed above the assessing officer treated the aforesaid amount of Rs.53,04,334/- as the receipt from non-members and within the meaning of first proviso to Sec. 2(15) of the Act for non-charitable purpose and claim of exemption u/s 11 of the Income Tax Act 1961 was rejected.

4. Aggrieved the assessee filed the appeal before the ld. CIT(A). However, the ld. CIT(A) has passed the ex-parte order u/s 250 of the Act on 18.05.2023 and dismissed the appeal of the assessee on the ground that assessee failed to make any response during the course of appellate proceedings. The relevant part of the decision of ld. CIT(A) is reproduced as under:

- “2. Aggrieved, with the order issued by the AO, the appellant has filed present appeal on 13.04.2015. In the course of appellate proceedings, it is seen that the appellant was issued and served various notices u/s 250 of the Act from this office to present his contentions and any documents supporting them. The said notices were issued right from 2020 through till 2023 and all of them (4 in number) remain un-complied with. The National Faceless Appeal Centre (NFaC) also in November, 2022 enabled communication window to facilitate filing of submissions by the appellant but to no avail.
3. In view of the above, it is clear that the appellant is not interested in prosecuting the present appeal because there has been no response as yet. In view of the above, the appeal stands dismissed.

Thus, the appeal filed by the appellant stands dismissed.”

5. During the course of appellate proceedings before us the Id. Counsel submitted that in the month of July 2019 the assessee has filed all the detail before the CIT(A) in the physical mode which was not considered by the Id. CIT(A). However, in the year 2021 the system of filing submission through electronic mode was introduced since the assessee had already filed relevant details in physical mode, therefore no further details in duplication were filed through electronic mode before the CIT(A). The Id. Counsel submitted that Id. CIT(A) is not justified in dismissing the appeal of the assessee without considering the submissions already filed by the assessee.

On the other hand, the Id. D.R submitted that matter may be restored to the file of the Id. CIT(A) for deciding afresh on merit after considering the submission of the assessee.

6. Heard both the sides and perused the material on record. The dispute in present appeal is pertained to the denial of assessee's claim of exemption u/s 11 of the Income Tax Act 1961. The assessee is a charitable trust and has been granted registration u/s 12A of the Act. During the course of appellate proceeding before the Id. CIT(A) the assessee has filed the detailed submission on 1st July 2019 in physical mode when system of electronic filing of submission was not introduced. Since, system of filing submission on electronic mode was introduced only in 2021, therefore, the assessee had not resubmitted the already filed details on 01.07.2019 as referred above as the assessee thought that it was the sufficient compliance made before the Id. CIT(A). In view of the above facts and circumstances it is observed that the new system of filing submission on electronic mode was recently introduced in the year 2021, therefore, the assessee had not refiled same submission which was already filed on physical mode. The assessee has

demonstrated from the copies of documents placed in the paper book that written submission containing 187 pages was filed before the ld. CIT(A) on 19.01.2019. In view of the above facts and material placed on record we consider that ld. CIT(A) is not justified in dismissing the appeal of the assessee ex-parte. Therefore to decide the appeal on merit as contemplated u/s 250(6) of the Act, we consider it appropriate to provide more opportunities to the assessee at the level of 1st appellate authority, therefore, we restore this case to the file of the ld. CIT(A) for deciding de novo after affording more opportunities to the assessee. The assessee is directed to make compliance before the ld. CIT(A) as per the new system. Therefore, the appeal of the assessee is allowed for statistical purpose.

ITA No.2448/Mum/2023

7. Since we have adjudicated the same issue on identical facts vide ITA No.2450/Mum/2023 as supra in this order by restoring the issue in appeal to the file of the ld. CIT(A) for de novo adjudication, therefore applying the finding as mutatis mutandis the aforesaid appeal of the assessee is also allowed for statistical purposes.

ITA No.2451/Mum/2023

8. Since we have adjudicated the same issue on identical facts vide ITA No.2450/Mum/2023 as supra in this order by restoring the issue in appeal to the file of the ld. CIT(A) for de novo adjudication, therefore applying the finding as mutatis mutandis the aforesaid appeal of the assessee is also allowed for statistical purposes.

ITA No.2452/Mum/2023

9. Since we have adjudicated the same issue on identical facts vide ITA No.2450/Mum/2023 as supra in this order by restoring the issue in appeal to the file of the ld. CIT(A) for de novo adjudication, therefore

applying the finding as mutatis mutandis the aforesaid appeal of the assessee is also allowed for statistical purposes.

ITA No.2454/Mum/2023

10. Since we have adjudicated the same issue on identical facts vide ITA No.2450/Mum/2023 as supra in this order by restoring the issue in appeal to the file of the ld. CIT(A) for de novo adjudication, therefore applying the finding as mutatis mutandis the aforesaid appeal of the assessee is also allowed for statistical purposes.

11. In the result, all the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 20.03.2024

Sd/-

(Vikas Awasthy)
Judicial Member

Sd/-

(Amarjit Singh)
Accountant Member

Place: Mumbai

Date 20.03.2024

Rohit: PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.