

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.353/Ahd/2023
(Assessment Year: 2021-22)

Joint Commissioner of Income Tax (OSD)(Exemptions), Circle-2, Ahmedabad	Vs.	Tapti Valley Education Foundation, 456/457 Village, Narthan, Rander Dandi Road, Olpad-395005
[PAN No.AACCT9397C]		
(Appellant)	..	(Respondent)

Appellant by :	Dr. Darsi Suman Ratnam, CIT DR
Respondent by:	None

Date of Hearing	02.04.2024
Date of Pronouncement	17.04.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Revenue against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Center (in short “NFAC”), Delhi vide order dated 16.02.2023 passed for Assessment Year 2021-22.

2. The Revenue has taken the following grounds of appeal:-

“(i) Whether in the facts and in the law the Ld. CIT(A) was right in holding that the assessee is eligible for exemption u/s 11 & 12 of the Act ignoring the fact that for the relevant assessment year, the assessee is only provisionally registered u/s 12AB of the Act, whereas the Section 12A of the Act provides that for claiming exemption u/s 11 & 12 the trust institution is registered u/s 12AB of the Act?

(ii) The appellant crave leave to add, amend, delete or modify ground of appeal before the finalization of appeal.”

3. We observe that there is a minor delay in filing of appeal by the Department. The department has filed application for condonation of delay, in which it was submitted before us that the minor delay of 22 days in filing of the present appeal was due to heavy workload, and the same may kindly be condoned. Looking into the minor period of delay in filing of appeal by the Department, the delay of twenty-two days in filing of the present appeal is hereby being condoned.

4. The brief facts of the case are that the assessee is a charitable trust. During Assessment Year 2021-22, the assessee filed return of income disclosing total income of rupees Nil on 15.02.2022. Intimation order under Section 143(1) was passed on 23.08.2022 in which claim of exemption under Sections 11 and 12 of the Act amounting to Rs. 6,58,01,715/- was disallowed on the ground that appellant had failed get new registration / approval under Sections 12AB or 10(23C)(iv) / 10(23C)(v) / 10(23C)(vi) / 10(23C)(via), to be eligible for exemption as per amended I.T. Act w.e.f. 01.06.2020.

5. In appeal, the assessee submitted before Ld. CIT(Appeals) that the CPC has erred in disregarding the facts that, on page No. 1 of the Return filed in Form - ITR - 7, the assessee has duly furnished the New Registration approval details. Accordingly, it was submitted that CPC has erred in not allowing the assessee an opportunity to clarify his case by seeking any clarification on the grounds on which disallowance has been made. Therefore, since the order under Section 143(1) of the Act has been passed against the principles of natural justice and without giving opportunity of submitting clarification by the assessee, the impugned order

is erroneous, and the disallowance of Rs. 65801715/- made under incorrect presumption of fact that new registration/approval details is not available, is liable to be deleted.

6. The Ld. CIT(Appeals) allowed the appeal of the assessee on the ground that CPC has erred in coming to the incorrect conclusion that new registration approval details have not been filed by the assessee, wherein the same have been duly filed by the assessee in the return of income. Accordingly, looking into the instant facts, Ld. CIT(Appeals) allowed the appeal of the assessee with the following observations:

“5.1 In Grounds No 1 and 2, the appellant has contested the disallowance of claim of Rs. 65801715/- u/s. 11 & 12 of the Income Tax Act as new registration/approval details are not available. It has been contended that on page No. 1 of the Return filed in Form - ITR - 7, New Registration approval details have been mentioned. On the other hand in the intimation u/s 143(1), following error description has been mentioned as the reason for the disallowance:

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In Schedule Part A General -"Details of registration or approval under Income Tax Act" details of Section 12AB or 10(23C)(iv) / 10(23C)(v)/ 10(23C)(vi) / 10(23C)(via) is not provided in the column "Section under which the registration is applied". The Act has been amended from 01/06/2020, and all the entities have to get new registration/approval u/s 12AB or 10(23C)(iv)/ 10(23C)(v)/ 10(23C)(vi) / 10(23C)(via) to be eligible for exemption. Since in your case, new registration/approval details are not available, exemption claimed In SI. No, 41 to 4viii in Schedule Part 8-TI is not allowable.

5.2 As per the enclosures attached to the submission dated 03.10.2022, registration has been accorded by the Pr CIT on 27.05.2021 vide Reg. No AACCT939720206. On perusal of the return form in ITR 7 it is observed that at Part A General, while filling up the 'Details of registration or approval under the IT Act the assessee has failed to fill up the column earmarked for "Section under which the registration is applied', although the columns for "Section under which registered or approved', "Date of Registration or approval', "Approval/Notification/Registration No" and "Approving/Registering Authority' have been properly filled up. In view of registration of the assessee being accorded by the Pr CIT well in time, and other relevant columns being filled up properly, the apparent clerical mistake of not

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mentioning the "Section under which the registration is applied", although avoidable, cannot be a ground for disallowance of claim u/s 11 and 12 of the Act.

5.3 In view of the above discussion disallowance of Rs 14,98,98,522/- is deleted and the appeal succeeds. Ground No. 1 and 2 are, therefore, allowed."

7. On going to the instant facts, we find no infirmity in the order of Ld. CIT(Appeals) so as to call for any interference.

8. In the result, the appeal of the Revenue is dismissed.

This Order pronounced in Open Court on	17/04/2024
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Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 17/04/2024

TANMAY, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad