

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.184/PUN/2024

निर्धारण वर्ष / Assessment Year : 2021-22

Shri Seetaramchandraji Deo Sanstha Ichalkaranji, Ward No.2, House N.5, Nadives, Ichalkaranji, Maharashtra – 416 115 PAN : AAATS5502R	Vs.	ADIT, Bangalore
Appellant		Respondent

Assessee by : Smt. Deepa Khare
Revenue by : Shri Arvind Desai

Date of hearing : 18.04.2024
Date of pronouncement : 19.04.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 06.10.2023 for the assessment year 2021-22.

2. Brief facts of the case are that the appellant is Charitable Trust duly registered u/s.12A of the Income-tax Act, 1961 (hereinafter also called 'The Act'). Return of income for the A.Y. 2021-22 was filed on 23.02.2022 declaring Nil income. The said return was processed by the CPC vide intimation/s.143(1) dt.

25.11.2022 denying exemption u/s.11 of the Act on the ground that the appellant had filed Form No.10B belatedly.

3. Being aggrieved, an appeal was filed before the CIT(A) who vide impugned order affirmed the order of the AO placing reliance on the decision of Hon'ble Bombay High Court in the case of *Little Angels Education Society Vs. Union of India* 434 ITR 423 (Bombay). Being aggrieved, the appellant is in appeal before the Tribunal in the present appeal.

4. The Id. AR submits that though Form No.10B was not filed within the prescribed time but was filed before the processing the return of income by the CPC u/s.143(1). Therefore, the CPC ought not to have denied exemption u/s.11 of the Act. She also placed reliance on the decision of Coordinate Bench of the Tribunal in the case of *The Poona Diocesan Educational Society Vs. ACIT – ITA No.705/PUN/2022, order dt. 29.03.2023*, copy of the order placed in the paper book.

5. Heard the rival submissions and carefully perused the material on record. I find that admittedly in the present case Form No.10 was filed along with return of income but beyond the due date. Form No.10B was very much available with the CPC when the return of income was being processed. It is settled position that

Statutory Rules cannot override the provisions of the Act. Therefore, I direct the CPC to rectify the intimation by taking into consideration the Form No.10B of the appellant. Accordingly, the appeal of the appellant stands allowed. The ratio of decision in the case of *Little Angels Education Society Vs. Union of India 434 ITR 423 (Bombay)* has no application to the facts of the present case in as much as in the said case the issue was relating to condonation of delay.

6. In the result, the appeal of the appellant is allowed.

Order pronounced on this 19th day of April, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 19th April, 2024.
Satish

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.