

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**

**AND**

**SHRI SUNIL KUMAR SINGH, HON'BLE JUDICIAL MEMBER**

**ITA NO. 4153/MUM/2023 (A.Y: 2013-14)**

Sir Ratan Tata Trust Bombay House, 24 Homi Mody Street, Fort Mumbai - 400001  <b>PAN: AAATS1013P</b>	v.	DCIT (Exemption)-2(1) MTNL Tele Building, Cumballa Hills Peddar Road, Mumbai - 400026
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee Represented by</b>	<b>:</b>	<b>Shri Sukhsagar Syal, Shri Atul T. Suraiya &amp; Ms. Bhavika Jain</b>
<b>Department Represented by</b>	<b>:</b>	<b>Ms. Sanyogita Nagpal</b>
<b>Date of conclusion of Hearing</b>	<b>:</b>	<b>24.04.2024</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>24.04.2024</b>

**ORDER**

**PER NARENDRA KUMAR BILLAIYA (AM)**

**1.** This appeal by the assessee is preferred against the order dated 22.09.2023 by National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] pertaining to A.Y.2013-14.

2. The grievance of the assessee read as under: -

"1. On the facts and circumstances of the case and in law, the CIT(A) grossly erred in holding that the assessing officer (AO) has rightly passed order u/s 154 of the Act in spite of there being no mistake apparent from record in the AOs order u/s.143(3) of the Act.

2. On the facts and circumstances of the case and in law, the CIT(A) erred in holding that the Appellant had not challenged the validity of the order passed u/s. 154 even though there was a specific ground challenging the same.

3. On the facts and circumstances of the case and in law, the impugned order u/s 250 of the Income-tax Act, 1961 (Act) is passed in gross violation of principles of natural justice inasmuch as opportunity of hearing was not granted and a clear copy of the remand report with a valid Document Identification Number (DIN) was not provided.

**Without prejudice to Ground 1 and 2 above.**

4. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in upholding the order of the AO u/s 154 of the Act wherein the AO has,

a) Denied the benefits of section 11 and 12 of the Act by alleging violations of section 13(1)(d) and section 13(2)(h) of the Act;

b) Denied the benefits of section 11 of the Act to entire income ignoring the judgement of the Hon'ble Supreme Court in the case of DIT Chennai Vs Working Womens Forum (2015) and also ignoring the fact that such inclusions had been deleted in Appellate orders in the case of the other allied trusts in earlier years.

c) Denied the accumulation of 15% even though the Appellant is eligible for the same.

d) Denied the deduction of Rs 80,96,92,155/- being income applied to charitable purposes in India on the objects of the Appellant and Rs 5,28,107/- being administrative expenses.

5. On the facts and circumstances of the case and in law, the Ld CIT(A) have erred in not giving any finding on the ground with respect to penalty proceeding u/s 271(1)(c) of the Act considering it to be consequential and general in nature instead of dropping the penalty proceedings.

Each of the above ground are mutually exclusive, independent and without prejudice to each other.

The Appellant craves leave to add, alter, modify or amend any of the ground(s) / sub ground(s) of appeal."

**3.** Briefly stated the facts of the case are that the, assessment was framed under section 143(3) of Income-tax Act, 1961 (in short "Act") vide order dated 31.03.2016 which was subject to rectification by the Assessing Officer under section 154 of the Act vide order dated 17.07.2018.

**4.** Before us, counsel for the assessee vehemently stated that the assessment order dated 31.03.2016 is under challenge before Ld. CIT(A) and therefore the Ld. CIT(A) ought not to have decided the appeal by the assessee preferred against order framed under section 154 of the Act. It is the say of the counsel that since the computation part of the assessment order is under challenge the same being subject matter of rectification should have decided by the Ld. CIT(A) after deciding the quantum appeal.

**5.** We have given a thoughtful consideration to the order of the authorities below. The undisputed fact is that the assessment order dated 31.03.2016 is under challenge before Ld. CIT(A). It is also true that the order framed under section 154 of the Act is in respect of the computation of income. When this fact was brought to the notice of the Ld. CIT(A), the Ld. CIT(A) observed as under: -

*"In the assessment order passed u/s 143(3) of the Act on take in 2016 the Ld. A.O. made elaborated discussion regarding the denial of exemption u/s 11 of the Act but while computing the income he has mistaken in the granted the exemption. This mistake was realized by the later on and accordingly, the impugned rectification order was passed. As the assessee/appellant has not challenged the exemption of jurisdiction by the A.O. u/s 154, the further discussion on this issue is not required. The merits of the case shall be decided in the quantum appeal. Hence the present appeal of the assessee is dismissed and the order made by A.O u/s 154 is upheld."*

6. In our considered opinion the Ld. CIT(A) should not have decided the appeal preferred against the order under section 154 of the Act till the disposal of the appeal preferred against the order under section 143(3) of the Act. Therefore, in the interest of justice and fair play, we restore this appeal to the file of the Ld. CIT(A). The Ld. CIT(A) is directed to decide the appeal afresh after deciding the appeal preferred against order dated 31.03.2016 framed under section 143(3) of the Act.

7. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 24<sup>th</sup> April, 2024.

**Sd/-**  
**(SUNIL KUMAR SINGH)**  
**JUDICIAL MEMBER**

Mumbai / Dated 24.04.2024  
Giridhar, Sr.PS

**Sd/-**  
**(NARENDRA KUMAR BILLAIYA)**  
**ACCOUNTANT MEMBER**

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mum**