

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 2526/Del/2023
(Assessment Year: 2016-14)**

Association for State Road Transport Undertaking, Plot No. 4A, PSP Block, ASRTU Bhawan, Pocket-14, Sector8, New Delhi (Appellant)	Vs. ACIT, Circle Exempt-1(1), New Delhi (Respondent)
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PAN: AAAAA0233A

Assessee by :	Shri Tarandeep Singh, Adv
Revenue by:	Mrs. Sunita Verma, CIT DR

Date of Hearing	05/03/2024
Date of pronouncement	14/05/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.2526/Del/2023 for AY 2016-17, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. CIT(A)', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1053611359(1) dated 08.06.2023 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 28.12.2018 by the Assessing Officer, ACIT, Circle Exempt-1(1), New Delhi (hereinafter referred to as 'ld. AO').

2. The assessee has raised the following grounds of appeal:-

"1. That on the facts and law involved, the Ld. Commissioner of Income Tax (Appeals) [Ld. CIT(A)] erred in confirming the addition of Rs 7,90,88,435/- made by Ld. Assessing officer [Ld. AO] by invoking proviso to Section 2(15) of the Income Tax Act, 1961. The impugned addition is made which stands already jettisoned by the order of Hon'ble Delhi High Court in appellant's own case for AY 2012-13 (ITA No 154/2021 order dated 30.09.2021) and several

orders of Hon'ble Delhi ITAT in similar facts in appellant own case of earlier AYs 2014-15 (ITA No 4741/DEL/2017 order dated 21.09.2020), AY 2013-14 (ITA No 4740/DEL/2017 order dated 21.09.2020), AY 2012-13 (ITA No 0643/DEL/2017 order dated 25.02.2020) which squarely covers the present issue in favor of assessee (being Covered Matter).

2. That on the facts involved, Ld. CIT(A) erred in holding that despite giving multiple opportunities to appellant, the appellant did not file any submissions on merit which evidences that the appellant is not interested in prosecuting the present appeal. Contrary to this finding of Ld. CIT(A), instead the appellant at the time of filing of appeal itself filed detailed written submissions, statement of facts, judgements relied upon and detailed grounds of appeal along with Form 35.

3. That on the facts and in law, the Ld. CIT(A) and Ld. AO erred in holding/observing that the activity of the appellant and its testing unit named Central Institute of Road Transport (CIRT) does not fall within the scope of charitable purpose as defined in Sec. 2(15) of the Income Tax Act, 1961 and consequently wrongly taxed the whole surplus amounting to Rs. 7,90,88,435/- on commercial principles, denying the benefits of section 10 (23C) (iv) or Section 11 and 12 of the Income Tax Act, 1961.

4. That the Ld. CIT(A) and Ld. AO has not given any reasons as to how the activity of the appellant and its testing unit (i.e. CIRT) does not fall within the scope of charitable purpose as defined in section 2(15) of the Income Tax Act 1961. He has just plainly refused without assigning any reasons.

5. That the appellant filed its income tax return under section 10 (23C) (iv) of the Income Tax Act, 1961 whereas the assessment of the appellant has been completed by invoking section 11 and 12 of the Income Tax Act. Hence the Assessing Officer erred in law by not applying the correction provision of law.

6. That the assessment as made and the order of the Ld. CIT(A) are against law of the case involved.

7. That the grounds of appeal as herein are without prejudice to each other.

8. That the appellant respectfully craves leave to add, amend, alter and / or forego any ground(s) at or before the time of hearing."

3. We have heard the rival submissions and perused the material available on record. At the outset, the Id AR stated that the detailed submissions were filed by the assessee before the Id CIT(A) along with the filing of appeal. None of those submissions were considered. Ultimately, the appeal was decided ex parte by the Id CIT(A). The Id. AR before us prayed for one last opportunity to be granted to the assessee for making effective representation in this appeal. We find that the Id CIT(A) had indeed passed an ex parte order without giving

any decision on merits, we deem it fit and appropriate, in the interest of justice and fairplay, to restore this appeal to the file of the Id CIT(A) for de novo adjudication in accordance with law. Needless to mention that the assessee give reasonable opportunity of being heard and the assessee is also directed not to take unwanted adjournments, except due to exceptional or bona fide circumstances and cooperate with the Id CIT(A) for expeditious disposal of this appeal. The assessee is also at liberty to furnish further evidences, if any, in support of its contentions. With these directions, the appeal of the assessee is restored to the file of the Id CIT(A). Accordingly, Grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 14/05/2024.

-Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:14/05/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi