

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT
AND SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.638 & 639/Bang/2024
Assessment Year : 2018-19

Sree RV Education Trust, RV Gardens, NH 4 Bye Pass, Kolar-563 101. PAN – AAHTS 0657 E	Vs.	The Income Tax Officer (Exemptions) Ward - 3, Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri R Chandrashekar, C.A
Revenue by	:	Shri Subramanian S, JCIT (DR)

Date of hearing	:	14.05.2024
Date of Pronouncement	:	16.05.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the NFAC, New Delhi dated 15/01/2024 in DIN No. ITBA/ NFAC/S /250/2023-24/1059716982(1) for the assessment year 2018-19.

2. At the outset, we note that there was a delay in filing the appeal by the assessee for 24 days. The assessee has filed an Affidavit explaining the reason for the delay, which is available on record. It was submitted that the order passed by the Id. CIT(A) dated 15/01/2024 was uploaded in the e-filing portal, which was not noticed by the trust. It is only when the Department started the recovery proceedings, the trust

came to know about the order passed by the Id. CIT(A). Immediately, thereafter the appeal was filed before the Tribunal. However, in this process, the delay of 24 days has occurred, which is prayed to be condoned. Accordingly, the Id. AR prayed before us to condone the delay in filing the appeal by the assessee.

3. On the contrary, the Id. DR considering the length of the delay, did not oppose on the condonation petition filed by the assessee.

4. After considering the arguments of both the parties and materials available on record, we find it fit to condone the delay in the appeal filed by the assessee. Hence, we proceed to adjudicate the issue on merit.

5. At the threshold, it was noticed that the assessee has neither appeared during the assessment proceedings nor appellate proceedings. At the time of hearing, the Id. AR submitted that the assessment was framed u/s 143(3) of the Act dated 23/04/2021 during the COVID period and, therefore, the assessee could not make the necessary compliances. Likewise, the Id. AR submitted that the assessee in Form 35 specifically requested for the physical notice intimating the date of the hearing, but the Id. CIT(A) inadvertently has issued all the notices through electronic mode. As per the Id. AR there was valid reason, which prevented the assessee making the compliance before the Id. CIT(A). In view of the above, the Id. AR requested to restore the issue to the file of the AO for fresh adjudication as per the provisions of law.

6. on the other hand, the Id. DR considering the reasons explained by the Id. AR for the delay did not raise any serious objections.

7. We, after considering the reason furnished by the Id. AR for non-compliance of the notices issued by the AO and Id. CIT(A), find that

there was sufficient cause for the non-compliance of the notices on the part of the assessee. Accordingly, we hold that the entire issue on hand requires to be revisited at the level of the AO. Therefore, we set aside the issue to the file of the AO for fresh adjudication as per the provisions of the law. Hence, ground of appeal raised by the assessee is hereby allowed for the statistical purposes.

ITA No.639/Bang/2024 for the assessment year 2018-19

8. Since we have set aside the quantum appeal, penalty appeal is also to be set aside to the file of the AO for fresh adjudication as per the provisions of law. Hence, ground of appeal raised by the assessee is hereby allowed for the statistical purposes.

9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in court on 16th day of May, 2024

Sd/-

(GEORGE GEORGE K)
Vice President

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore,
Dated, 16th May, 2024
/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore