



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.10/CTK/2023
Assessment Year : 2018-19

Indian National Association for study of the Liver, AT: Department of Gastroenterology, SCB Medical College & Hospital, Cuttack	Vs.	Asst. Director of Income Tax, CPC, Bangalore- 560500/ ITO (Exemption), Aayakar Bhava, Cuttack
PAN/GIR No.AAATI 6221 R		
(Appellant)	..	(Respondent)

Assessee by : Shri B.N. Behera/P.K.Mishra/Himanshu Jena, Advs

Revenue by : Shri Sanjay Kumar, CIT DR

Date of Hearing : 12/06/2024

Date of Pronouncement : 12/06/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id
CIT(A), NFAC, Delhi dated 13.12.2022 in Appeal No.CIT(A),

Cuttack/10827/2019-20 against the rejection of the rectification u/s.154 of the Act for the assessment year 2018-19.

2. Shri B.N.Behera/P.K.Mishra/Himanshu Jena, Id ARs appeared for the assessee and Shri Sanjay Kumar, Ld CIT DR appeared for the revenue.

3. It was submitted by Id AR that the assessee had filed its return of income for the relevant assessment year on 30.9.2018 and intimation u/s.143(1) came to be issued on 2.1.2020, wherein, the entire expenses of the assessee had been disallowed. It was the submission that no show cause notice had been issued to the assessee. It was the submission that the assessee had filed application u/s.154 of the Act before the Assessing Officer on 26.11.2019. In the rectification application, the assessee has specifically claimed the allowance of expenses of Rs.2,58,43,396/- which is the same amount as mentioned in the intimation. It was the submission that the Assessing Officer, on the ground that the assessee did not have registration u/s.12A of the Act denied the expenditure claimed by the assessee. It was the submission that the denial of the registration u/s.12A of the Act would not amount to disallowance of the entire expenses. It only amounts to denial of exemption. He submitted that he had no objection if the issues are restored to the file of the AO for verification of the expenses and allowance of the same. Ld CIT DR had no objection if the issues are restored to the file of the AO for verification of the expenses and allowance.

4. We have considered the rival submissions. The facts in the present case clearly show that the assessee is not having registration u/s.12A of the Act. Once it is found that the assessee does not have registration u/s.12A of the Act, the income of the assessee is liable to be assessed as business income. Once the total receipts of the assessee are being considered, then obviously the expenses in relation to such receipts would also have to be considered. This being so, as it is noticed that the Assessing Officer has not considered the expenses claimed by the assessee, the issues are restored to the file of the AO for examination of the various expenses claimed by the assessee and if it is found that the expenditure are incurred for the purpose of earning the income, same is liable to be allowed.

5. In the result, appeal of the assessee stands partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 12/06/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 12/06/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Indian National Association
for study of the Liver, AT: Department of
Gastroenterology, SCB Medical College &
Hospital, Cuttack
2. The Respondent: Asst. Director of Income
Tax, CPC, Bangalore-560500/
ITO (Exemption), Aayakar Bhava, Cuttack
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack