

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES,"SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष  
BEFORE: Hon'ble SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 727/JP/2024  
निर्धारण वर्ष / Assessment Year : 2018-19

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|--|-------------|----------------------------------|
| Aditya Manav Seva Sansthan<br>71/72, Mahadev Nagar, Nandpuri<br>22 Godam, Sodala, Jaipur – 302 006 | बनाम<br>Vs. | The ITO (E)<br>Ward- 1<br>Jaipur |
| स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAAAA 9999D  |             |                                  |
| अपीलार्थी / Appellant  |             | प्रत्यर्थी / Respondent          |

निर्धारित की ओर से / Assessee by : Shri Mukesh Khandelwal, CA  
राजस्व की ओर से / Revenue by: Mrs. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 18/06/2024  
उद्घोषणा की तारीख / Date of Pronouncement: 19 /06/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. Addl.CIT(A)-10, Mumbai dated 03-05-2024 for the assessment year 2018-19. It is noted that the ld.AR of the assessee vide his letter dated 07-06-2024 has revised the following grounds of appeal.

“1. The under the facts and circumstances of the case the ld. CIT(A) has erred seriously in dismissing the appeal in limine by not condoning the delay occurred in filing the appeal, without properly appreciating the reason stated in the appeal memo.

2. That without prejudice to Ground No. 1, the Id CIT(A) has erred in not deciding the issue of charging of tax at MMR by CPC on the net income of the appellant charitable institution which is registered u/s 12A of the Income Tax Act, 1961 without assigning any reason for the same.

3. That without prejudice to Ground No. 1, the Id CIT(A) has erred in not deciding the issue of not allowing credit of Rs.9,355/- by CPC being TDS deducted by bank on interest payment which income stands duly accounted for in the ITR

2.1 After hearing both the parties and perusing the materials available on record, the Bench found that the appeal filed by the assessee was dismissed by the Id. CIT(A) as the same was not filed within limitation period. Therefore, the same was dismissed by not condoning the delay. However, before me, the Id. AR of the assessee reiterated the same arguments as were raised by him before the first appellate authority and also relied upon the written submission. The Bench found that the case of the assessee is that the order passed by the AO u/s 143(3) of the Act dated 21-05-2019 was served upon the assessee on 22-05-2023. In this regard, he has relied upon his affidavit but the Id. AR has not filed any documentary evidence before any of the Revenue Authorities in support of his affidavit and could not substantiate his arguments in respect of said claim that the order passed on 21-05-2019 by the AO was served upon the assessee on 22-05-2023. However, on going through the CPC 2.0 portal, it was noticed that on 09-07-2020 the assessee has filed rectification application against order passed on 21-05-2019 u/s

143(1) of the Act which was rejected on 24-07-2020. Since the assessee had filed rectification application on 09-07-2020, therefore, the claim of the assessee that order passed on 21-05-2019 was served upon the assessee on 22-05-2023, cannot be relied upon. The assessee could not substantiate the said fact subsequently before the Id. CIT(A) and also before me. On one hand, the assessee has taken specific step that impugned order dated 21-05-2019 u/s143 (1) of the Act was served upon him on 22-05-2023 but on the other hand, the assessee himself has filed rectification against the said order on 09-07-2020 which shows that the assessee had incorrect claim / defence before the Revenue Authorities. Thus the Id.CIT(A) has rightly rejected the application filed by the assessee for seeking condonation of delay. The Bench also takes into consideration the case laws relied upon by the Id. CIT(A) on the issue of condonation of delay.

- (i) Perumon Bhagvathy Devaswom, Perinadu Village vs Bhargavi Amma (Dead) by Lrs. (2008) 8 SCC 321
- (ii) Balwant Singh (Dead) vs Jagdish Singh (2010) 8 SCC 685.
- (iii) Shiv Dass vs Union of India (UOI) and Ors, AIR 2007 SC 1330
- (iv) Ajay Dabra vs Pyare Ram & Ors., Arising out of SLP © No. 15793 of 2019 (SC)
- (v) State of Uttar Pradesh & Ors M/s, Satish Chand Shivharre and Brothers SLP (Civil) No. 4301 of 2022 dated 04<sup>th</sup> April, 2022 (Alld. H.C.)

2.2 Hence in view of the above deliberations, case laws (supra) and also the facts of the case, the Bench confirms the order of the Id CIT(A). Thus the appeal of the assessee is dismissed.

3.0 In the result, the appeal of the assessee is dismissed with no order as to costs.

Order pronounced in the open court on 19 /06/2024.

Sd/-

(संदीप गोसाईं)  
(Sandeep Gosain)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 19 /06/2024

**\*Mishra**

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

1. The Appellant- Aditya Manav Seva Sansthan, Jaipur
2. प्रत्यर्थी / The Respondent- The ITO (E), Ward- 1 Jhunjhunu
3. आयकर आयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 727/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar