

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, KOLKATA

BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 569/Kol/2024
Assessment Year: 2022-23

Ordinance Factories Womens Welfare Association, Kolkata 10A, Auckland Road West Bengal - 700001 [PAN: AAAAO0121B]	Vs	Commissioner of Income Tax (Exemption), Kolkata
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Arnab Chakraborty, C.A.
Revenue by :	Shri Abhijit Kundu, CIT, D/R

सुनवाई की तारीख/Date of Hearing : 16/05/2024
घोषणा की तारीख/Date of Pronouncement : 01/07/2024

आदेश/O R D E R

PER DR. MANISH BORAD, ACCOUNTANT MEMBER:

The instant appeal is directed at the instance of the assessee against the order of the learned Commissioner of Income Tax, Appeal, Addl/JCIT(A) -10 Mumbai [hereinafter the “ld. CIT(A)”] dt. 18/01/2024, passed u/s 250 of the Income Tax Act, 1961 (“the Act”) for the Assessment Year 2022-23.

2. The solitary grievance of the assessee is that exemption of Section 11 of the Act was not granted solely on the ground that the assessee failed to furnish audit report in Form No. 10B within prescribed time limit.

3. At the outset, the ld. Counsel for the assessee stated that admittedly there was a delay in filing of audit report in Form 10B within the prescribed time limit. The assessee moved an application u/s 119(2)(b) of the Act to ld. Commissioner of Income Tax (Exemption) for

condonation of delay in filing audit report. Vide order dt. 30/04/2024, the delay of 132 days in filing audit report in Form 10B for Assessment Year 2022-23 has been condoned. Prayer was thus made that since the delay in filing the audit report has been condoned, there being no adverse observation of the lower authorities about the correctness of the claim made u/s 11 of the Act, the assessee be allowed the benefit of exemption u/s 11 of the Act.

On the other hand, the ld. D/R failed to controvert the contention of the ld. Counsel for the assessee.

4. We have heard rival contentions and perused the material placed before us. We observe that the assessee is a registered charitable society in West Bengal, extensively involved in running Kindergarten and Schools across various locations. The assessee has been granted registration u/s 12A of the Act vide Form 10AB dt. 21/07/2023 for the year under appeal. The assessee filed its return of income on 23/11/2022 claiming exemption u/s 11 of the Act for the amount applied for charitable purpose during the year. However, in the return processed u/s 143(1)(a) of the Act, exemption u/s 11 of the Act was denied on the ground that audit report on Form No. 10AB is filed belatedly. Further, ld. Counsel for the assessee challenged the adjustment made by the CPC in its order u/s 143(1)(a) of the Act before the ld. CIT(A) but failed to get relief since the audit report in Form 10B was not e-filed within due date. However, subsequent to the passing of the impugned order on 18/01/2024, assessee's application for condonation of delay in filing Form 10B for Assessment Year 2022-23, dt. 11/04/2023 (filed prior to the passing of impugned order) has been allowed and vide order dt.

30/04/2024, delay of 132 days in filing Form 10B for Assessment Year 2022-23 has been condoned. Since the only ground on which the exemption u/s 11 of the Act has been denied was on account of delay of furnishing Form 10B and there is no dispute about the activity of the assessee being carried out for charitable purposes and the amount has been applied for the object for which it is registered u/s 12A of the Act, in our considered view, since delay in filing form 10B has been condoned assessee is entitled to the benefit of deduction u/s 11 of the Act as claimed in the Income Tax return filed for A.Y. 2022-23. Accordingly, the sole ground raised by the assessee is allowed.

5. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 1st July, 2024 at Kolkata

Sd/-
(RAJPAL YADAV)
VICE PRESIDENT

Sd/-
(DR. MANISH BORAD)
ACCOUNTANT MEMBER

Kolkata, Dated 01/07/2024

SC SP

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata