

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B", NEW DELHI
BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,
AND
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

ITA NO. 1008/Del/2023		
A.YR. : 2018-19		
DKS SHIKSHA PRASAR SAMITI, MEERUT 8, PANCHSHEEL COLONY, MEERUT, UTTAR PRADESH-250004 (PAN: AAATD7191H)	VS.	ACIT, CIRCLE 1(1)(1), MEERUT UTTAR PRADESH
(APPELLANT)		(RESPONDENT)

Assessee by : Shri S.B. Gupta, CA
Department by : Shri Vivek Kumar Upadhyay, Sr. DR.

Date of hearing : 05.07.2024
Date of pronouncement : 09.07.2024

ORDER

PER SHAMIM YAHYA, AM :

Assessee has filed this appeal against the Order dated 14.02.2023 passed by the Ld. CIT(A)-NFAC, Delhi relating to assessment years 2018-19 on the following grounds:-

- 1. That in view of no addition made or adverse inference drawn in the assessment order, the returned income of Rs. NIL has attained finality and, therefore, the total income of Rs. 8,20,62,966/- and tax thereon of Rs. 3,90,61,448/- calculated in the Computation Sheet forming part of assessment order and the demand of Rs. 3,90,61,448/- raised in the Notice of Demand u/s. 156 is totally baseless, illegal and unjustified and, therefore, the demand deserves to be deleted.*

2. *That the assessee had filed ITR declaring total income of Rs. NIL. No adverse inference or any addition was made in the assessment order passed u/s. 143(3). Consequently, the total income as per assessment order comes to Rs. NIL. Therefore, the total income of Rs. 8,20,62,966/- and tax thereon of Rs. 3,90,61,448/- calculated in the computation sheet forming part of the assessment order and the demand of Rs. 3,90,61,448/- raised in the Notice of Demand u/s. 156 is totally baseless, illegal and unjustified and, therefore, the demand deserves to be deleted.*
3. *That the order passed by the CIT(A) is vague and totally unjustified. The CIT(A) has held the appeal filed by the assessee as “partly allowed” in his order, but has not specified which grounds of appeal have been allowed. Therefore, the order passed by the CIT(A) deserves to be quashed.*
4. *That the CIT(A) has erred in holding that the assessee had wrongly filed its ITR under the status of “AOB/BOI” as the assessee was registered u/s. 12AA, while the said status declared by the assessee was correct and was so correctly considered by the CPC too and, therefore, the order passed by the CIT(A) deserves to be quashed.*
5. *That the assessee reserves the right to add, delete or modify any of the grounds of appeal during the appeal proceedings.*

2. Brief facts of the case are that Assessee is a charitable trust and accepted its return of income of Rs. 8,20,62,966/- vide intimation u/s. 143(1) of the Act, dated 01.10.2019 arriving a refund of Rs. 77,944/-. Further, the case of the assessee was selected for Limited Scrutiny on the issue of “Expenditure for Charitable or Religious Purposes”. The AO completed the assessment without making any additions vide his assessment order dated 25.01.2021 u/s. 143(3) r.w.s. 143(3A) & 143(3B) of the Act. But, as per the computation sheet, dated 25.01.2021, the AO considered the assessee’s total income as Rs. 8,20,62,966/- and arrived taxable amount accordingly to the extent of Rs. 3,90,61,448/-. Aggrieved with the assessment order, assessee appealed before the Ld. CIT(A).

3. Upon assessee’s appeal, Ld. CIT(A) noted the facts of the case and submissions of the assessee as under:-

“..6.1 I have gone through the grounds of appeal, statement of facts, assessment order, and written submissions filed by the

appellant during the appellate proceedings. It is observed that the appellant is a charitable trust and accepted its return of income of Rs. 8,20,62,966/- vide intimation u/s. 143(1) of the Act, dated 1.10.2019 arriving a refund of Rs. 77,944/-. Further, this case has been selected for Limited Scrutiny on the issue of “Expenditure for Charitable or Religious Purposes”. The Ld. AO concluded assessment without making any additions vide order u/s. 143(3) r.w.s. 143(3A) & 143(3B) of the Act, dated 25.01.2021. But, as per the computation sheet, dated 25.01.2021, the Ld. AO considered the appellant’s total income as Rs. 8,20,62,966/- and arrived taxable amount accordingly to the extent of Rs. 3,90,61,448/-The appellant contending that it is a charitable trust with duly registered u/s. 12AA of the Act and it has filed its return of income well within the time declaring aggregate income referred to in sections 10, 11, & 12 of the Act of Rs. 8,20,62,966/-.

6.2 During the course of appellate proceedings, the appellant has filed written submissions and the same were perused. On perusal of the return of income, intimation u/s. 143(1) and computation sheet after scrutiny assessment, dated 25.1.2021, it is observed that the appellant company status appears as Trust as per the intimation u/s. 143(1) & PAN database as per ITBA module and it appears as AOP/BOI as per the return of income for the year under consideration filed by the appellant on 14.09.2018 and computation sheet after scrutiny assessment, dated 25.01.2021. The relevant part of ITR which is showing appellant’s status as AOB/BOI and PAN database information which is showing appellant’s status as Trust are reproduced here under for ready reference.

Return of income filed by the appellant with the Acknowledgement Number 292514200140918 with AOP Status (as mentioned in the submissions made by the appellant):

INDIAN INCOME TAX RETURN ACKNOWLEDGEMENT				Assessment Year
[Where the data of the Return of Income in Form ITR-1 (SAHAJ), ITR-2, ITR-3, ITR-4, ITR-5, ITR-6, ITR-7 transmitted and verified electronically]				2018-19
PERSONAL INFORMATION AND THE DATE OF ELECTRONIC TRANSMISSION	Name		PAN	
	B.D.S. INSTITUTE OF MANAGEMENT		AAATD794H	
	Flat/Shop/Block No.	Name Of Premises/Building/Village	Form No. which has been electronically transmitted	ITR-7
	8,0			
	Road/Street/Post Office	Area/Locality	Status: AOP/BCH	
		PANCHSHERI COLONY		
	Town/City/District	State	Pin/Zip Code	Aadhaar Number/Enrollment ID
	MERUR LAKSHMI	UTTAR PRADESH	200004	
	Designation of ACP/Ward/Circle: JACAN DISTRICT OFFICE			Original or Revised
	E-filing Acknowledgement Number: 292514200140918			Date: 14-09-2018
Ending Acknowledgement Number		Date (DD/MM/YYYY)		
1	Gross Total Income	1	0	
2	Deductions under Chapter-VIA	2	0	
3	Total Income	3	0	
4	Current Year loss, if any	4a	0	
5	Net tax payable	5	0	
6	Interest and Fee Payable	6	0	
7	Total tax, interest and Fee payable	7	0	

AN Database as per ITBA with Trust status:

PAN Details PAN Details Fields marked with asterisk (*) are mandatory

PAN:

PAN Application: PAN Lifecycle Summary

PAN Key Details

PAN	AAATD2197H	AN Popular Name	ENLIGHTEN CAPITAL, Q2B	RO Code	DLCA-257-1
Status	TRUST	Em	Mis		
Applicant Firm Name		Trade Name		Surname	D K S SHIKSHIA PRASAR SAMITI
Father's First Name		Middle Name		Surname	
Mother's Name					
DOB (DD)	31/03/1950	Sex			

PAN Address Details

Office Address:

Residence Address:

Communication Address: Residential Address Other Address

PAN Client Details

Form Type	Name on Card	Other Name
Vendor Name	Vendor Place	Vendor Capacity
Place of Attachment	Telephone No.	Email ID
Registration No.	Branch of Branch	Business Profession Code
PAN Duplication Status	<input type="checkbox"/> KYC Completed	<input checked="" type="checkbox"/> Indian Citizen/Eligible

4. Considering the above, Ld. CIT(A), NFAC, Delhi ordered as under:-
- “6.3 In view of the above, it appears that some discrepancy has arrived in treatment of status of appellant's trust and tax*

calculation. Hence, the Ld. AO is directed to verify the following issues.

1. As to why the appellant trust has filed its return of income for the year under consideration under the status of "AOP/BOI", if the trust is already registered u/s. 12AA of the Act?

2. As to why the CPC, Bengaluru treated the appellant as Trust in the intimation u/s. 143(1) of the Act and considered total receipts as exempted, when the appellant had filed its return in the status of AOP/BOI?

3. As to why the Ld. AO did not considered exemption u/s. 12AA of the Act during the assessment proceedings as followed by the CPC, Bengaluru in intimation u/s. 143(1) of the Act and treated all the receipts as total income of the appellant while computation after concluding the assessment proceedings, though there are no additions made during the limited scrutiny assessment?

6.4 In view of the above, the Ld. AO is directed to verify the above issues and re-compute the taxable income of the appellant for the year under consideration. Accordingly, the grounds of appeal raised by the appellant are partly allowed.

6.5 In the result, the appeal for the AY 2018-19 filed by the appellant is partly allowed."

5. Against the above order, assessee is in appeal before us.

6. We have heard the rival contentions and perused the records. We find that Ld. CIT(A) has rightly noted that there are points which need to be verified by the Assessing Officer with reference to the record. Accordingly, we remit back the issues to the file of the Assessing Officer to follow the directions of the Ld. CIT(A), as aforesaid, and pass a fresh order, after giving adequate opportunity of being heard to the assessee.

7. In the result, Assessee's appeal is allowed for statistical purposes.

Order pronounced on 09/07/2024.

Sd/-

(CHALLA NAGENDRA PRASAD)
JUDICIAL MEMBER

Sd/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRB

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar