

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "E", MUMBAI**

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

AND

SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

**ITA No.1021/M/2024
Assessment Year: 2020-21**

H L Kejriwal Memorial Trust C/o. Uma Kejriwal, Kejriwal House, 7 Naoroji Gamadia Road, Off. Peddar Road, Mumbai- 400026. PAN: AAATH8991F	Vs.	Assistant Director of Income Tax, CPC ITO 19(2)104, Piramaz Chamber, Mumbai- 560500.
(Appellant)		(Respondent)

Present for:

Assessee by

: Shri Anuj Kisnadwala, A.R.

Revenue by

: Shri P. D. Chougule, (Addl. CIT) SR. D.R.

Date of Hearing

: 13 . 06 . 2024

Date of Pronouncement

: 27 . 06 . 2024

ORDER

Per: Ratnesh Nandan Sahay, Accountant Member:

1. This appeal has been filed by the appellant against the Order of the Ld. CIT (Appeals) passed u/s. 250 of the Income Tax Act [the 'Act' in short] vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1059502957(1) Dated 09/01/2024 for the Assessment Year 2020-21.

2. The following grounds of appeal have been raised by the appellant:-

1. *“The learned National Faceless Appeal Centre [‘learned CIT(A)] has erred in dismissing the appeal filed under section 250 of the Income-tax Act, 1961 (‘the Act’) by the Appellant Trust [against the order under section 154 of the Act dated 25 August 2022 read with the intimation under section 143(1) of the Act dated 30th November 2021].*
2. *The learned CIT(A) has erred in holding that no mistakes, apparent from record, were committed by the learned Centralized Processing Centre, in the impugned intimation under section 143(1) of the Act dated 30th November 2021.*
3. *The learned CIT(A) has erred in holding that the adjustments made vide the impugned intimation under section 143(1) of the Act dated 30th November 2021, had attained finality, since no separate appeal was filed by the Appellant Trust. The learned CIT(A) failed to appreciate that the order under section 154 of the Act ‘merged’ with the impugned intimation under section 143(1) of the Act dated 30th November 2021 and consequently the learned CIT(A) ought to have allowed the appeal of the Appellant Trust.*
4. *The learned CIT(A) and the learned Centralized Processing Centre erred in making addition to the tune of INR 9,64,484 to the returned income of the Appellant Trust under section 143(1) of the Act, without appreciating the fact that the scope of additions/adjustments permissible under section 143(1) of the Act is very limited in nature (and does not cover the impugned adjustments).*

5. The learned CIT(A) and the learned Centralized Processing Centre erred by not allowing exemption under section 11 of the Act and consequently assessing the income of the Appellant Trust at INR 18,50,247.

The Appellant Trust craves leave to add, alter, amend or withdraw all or any of the Grounds of Appeal herein and to submit such statements, documents and papers as may be considered necessary either at or before the appeal hearing.”

3. The facts of the case, in brief, are that the appellant is a Public Charitable Trust registered under Bombay Public Trust Act. The appellant is also registered u/s. 12A of the Act. It has filed a return of income for the assessment year 2020-21 on 04/01/2020 declaring total income at Rs.2,35,760/- after claiming exemption u/s. 11 of the Act. Thereafter, the appellant received an intimation u/s. 143(1) of the Act making certain adjustments of Rs.18,50,247/-. In response to that intimation, the appellant filed a rectification application u/s. 154 of the Act on 15/12/2021 requesting the CPC to reprocess its case after rectifying the mistakes pointed out by it. The CPC, however, reconfirmed the adjustments made u/s. 154 of the Act dated 20/04/2022 and again raised a demand of Rs.7,07,943/-. The second rectification application was filed by the appellant on 16/05/2022 which was again disposed of by the CPC by another order u/s. 154 of the Act dated 25/08/2022.

4. Aggrieved by the order, the assessee filed appeal before Ld. CIT (A) who vide the impugned order dismissed the appeal of the assessee on the ground *“that the jurisdiction of an Assessing Officer (CPC in this case) to rectify an assessment order/intimation u/s. 143(1) under section 154 of the Act is limited as he could make correction of errors apparent on the face of the record. In that regard I place reliance on the judgment of Hon'ble Supreme Court in T.S. Balaram's ITO v. Volkart Bros. [1971] 82 ITR 50. Similar view has been reiterated in the case of CIT v. Keshri Metal (P.) Ltd. [1999] 237 ITR 165 (SC). The order of intimation passed under section 143(1) of the Act, has attained finality as it appears that no appeal was filed against that intimation order. I find no legal infirmity in the impugned order u/s. 154 passed by the CPC. Therefore, the appeal fails and the same is dismissed.”*
5. Aggrieved by the order of the Ld. CIT (A), this appeal has been preferred. During the appellate proceedings before us, the appellant placed reliance on the Supreme Court decision in Hind Wire Industries Ltd. vs. CIT and stated that no opportunity was given by the CPC to rebut why the claim of the appellant was rejected by making adjustments u/s. 143(1)(a) of the Act. This is against the principle of natural justice and therefore, the appellant should have been provided an opportunity of being heard before adjudication of the claim on merit.

6. We have considered the appellant's submissions and it is found that the appellant should have been given adequate opportunity of being heard before making any adjustments u/s 143 (1) of the Act, which was not given to him. Therefore, the matter is restored back to the file of the Assessing officer to decide the issue afresh on the merit of the case and after affording the assessee the opportunity of being heard.
7. In the result, the appeal is allowed for statistical purpose.

Order pronounced in the open court on 27.06.2024.

**Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER**

**Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER**

Mumbai, Dated: 27.06.2024.
Snehal C. Ayare, Stenographer

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.