

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH
MUMBAI**

**BEFORE: SHRI BR BASKARAN, ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 4546/MUM/2023
(Assessment Year : 2012-13)**

College of Physicians and Surgeons of Bombay CPS House, Dr. E. Borges Road, Parel, Mumbai-400012.	Vs.	ITO (E) 1 (2), Room no. 501, Piramal Chambers, Lalbaug Mumbai-400012.
PAN/GIR No. AAATC0457H		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shri H.M.Bhatt (SR. DR.)
Date of Hearing	27/06/2024
Date of Pronouncement	11/07/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 20.10.2023 passed in Appeal no. CIT(A) 1, Mumbai/11892/2015-16 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2012-13, wherein learned CIT(A) has dismissed assessee's appeal for non prosecution.

2. The brief facts of the appeal state that the assessee filed its return of income on 01.10.2012. The case was selected for scrutiny under CASS. Statutory notices u/s. 143(2) r/w 142(1) were issued. In response to the aforesaid notices, assessee trust represented before assessing officer through Mr. Manish H Mehta, CA and filed details called for. After examining the response of the assessee, learned assessing officer added in the assessee's income for A.Y. 2012-13, unspent accumulation of Rs. 1,45,01,730/- of earlier years for A.Y. 2006-07. Penalty proceedings u/s. 271(1)(C) of the Act were also initiated against the assessee for furnishing inaccurate particulars and for concealment of income. Aggrieved by assessment order, assessee preferred an appeal before learned CIT(A), who dismissed assessee's appeal for non prosecution.
3. Assessee filed this appeal before this Tribunal on the ground that learned CIT(A) has passed ex-parte impugned order ignoring the approval of learned CIT(Exemptions) for A.Y. 2008-09 to 2013-14 and further ignoring the fact that the surplus amount of A.Y. 2006-07 was utilized in A.Y. 2010-11 for educational purpose in accordance with the object of the appellant trust.
4. None appeared for the assessee. Heard learned DR and perused the material on records.
5. It appears from the perusal of impugned order that the assessee did not participate in the proceedings before the first appellate authority despite notices on eleven occasions. Learned CIT(A), thus dismissed assessee's appeal for non prosecution.
6. We find that learned CIT(A) has dismissed assessee's appeal in default of assessee. Learned CIT(A) was however expected to state the points for determination, the decision there on and the reasons for the decision as provided u/s. 250(6) of the Act. We are conscious of the fact, that assessee has not turned up before the first appellate authority in response to the notices issued on various occasions. However, in the interest of justice and fair play,

we deem it appropriate to remit the matter back to the file of learned CIT(A) for denovo adjudication on merit. We further direct the assessee to be diligent and co-operative in attending the hearings and making submissions before the first appellate authority for the expeditious and effective disposal of the appeal. Assessee should refrain from seeking any adjournment but for compelling and unavoidable reasons. Needless to say that learned CIT(A) shall ensure the observance of the principles of natural justice. It is made clear that we have not made any observations on the merit of the case. The appeal is liable to be allowed.

7. In the result, the appeal is allowed. The impugned order dated 20.10.2023 is set aside. The appeal is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 11.07.2024.

Sd/-
(BR BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated 11/07/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai