

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

**BEFORE SHRI AMARJIT SINGH, ACCO*NTANT MEMBER
AND SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

**ITA No.1820/Mum/2024
Assessment Year: 2020-21**

Shri Balaji International School Balaji, Sunder Lane, Off Link Road, Malad (W), Mumbai - 400064. PAN: AAETS 3506 P	Vs.	AO (Exemption), WD-2(3), Mumbai
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Dharan Gandhi
Revenue by : Shri S. Srinivasu, CIT/DR

Date of Hearing : 24.06.2024

Date of Pronouncement : 10.07.2024

ORDER

PER AMARJIT SINGH, AM:

This appeal of the assessee for the assessment year 2020-21 is directed against the order dated 19.02.2024 passed by the Id. Commissioner of Income-tax, Appeal, ADDL/JCIT (A) Jodhpur [hereinafter referred to as 'the Id. CIT(A)].

2. Fact in brief is that assessee is a charitable trust registered u/s 12A of the Act. The return of income declaring Nil income after claiming exemption u/s 11 & 12 of the Act was filed on 15.02.2021. The CPC has processed the return filed u/s 143(1) of the Act on 24.12.2021 and determined the total income at Rs. 14,24,78,090/- after disallowing the exemption claimed u/s 11 & 12 of the Act. As per the intimation issued by the CPC, total tax liability of Rs. 6,06,33,685/- was created and a net demand of Rs. 7,63,75,740/- was raised on account of denial of exemption claimed u/s 11 of the Act. The CPC has disallowed the exemption claimed on the ground that assessee has not filed Form

10AB within the stipulated due date prescribed in the Income Tax Rules.

3. The assessee has filed appeal before the First Appellate Authority against the intimation passed by the CPC u/s 143(1) of the Act on 24.12.2021 for denial of exemption claimed by the assessee. The Id. CIT(A) has dismissed the appeal filed by the assessee on the ground that the appeal was not filed within the prescribed time limit as provided u/s 249(3) of the I.T. Act, 1961.

4. Heard both the sides and perused the material on record. Without reiterating the fact as discussed (supra) in this order, the CPC has passed order u/s 143(1) of the Act on 24.12.2021 whereas the assessee had filed appeal before the Id. CIT(A) against the aforesaid order on 01.09.2023 which was beyond the statutory time limit prescribed for filling of the appeal. As per section 249(2)(c), the appeal shall be presented within 30 days of the following date on which the intimation of the order sought to be appealed is served.

5. There was delay of more than one year and seven months for filing the appeal before the Id. CIT(A). During the course of appellate proceedings, the learned counsel submitted that assessee had not filed audit report within the prescribed time limit, therefore, exemption u/s 11 of the Act was not allowed and the entire gross collection was taxed without providing deduction of expenses such as salary expenses, electricity expenses etc.

6. The Id. Counsel further submitted that in the case of assessee, the rectification filed against the order passed by the CPC u/s 143(1) of the Act. was not carried out and the grievance of the assessee was disposed of only on 30.08.2023 vide grievance acknowledgement no. 13077929 as placed along with the appeal paper.

7. Since rectification was not carried out therefore after disposing the grievance application of the assessee on 30.08.2023, the assessee has immediately filed the appeal before the ld. CIT(A).

8. Considering the aforesaid submission of the assessee, it appears that there is a sufficient reason for not filing the appeal before the ld. CIT(A) within the prescribed time limit since the grievance application of the assessee was disposed of only on 30.08.2023. Therefore, we consider that ld. CIT(A) is not justified in dismissing the appeal of the assessee without condoning the delay in filing the impugned appeal.

9. Considering the above facts and circumstances, we condone the delay in filing the appeal before the ld. CIT(A) and restore this appeal to the file of the First Appellate Authority for deciding it on merit as contemplated u/s 250(6) of the Act after affording adequate opportunity to the assessee. Accordingly, the appeal of the assessee is allowed for statistical purposes.

10. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 10.07.2024.

Sd/-
(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Mumbai, Dated:10.07.2024
Biswajit, Sr. P.S.

Copy to:

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

//True Copy//

By Order

Assistant Registrar
ITAT, Mumbai Benches, Mumbai