



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.209/CTK/2023
Assessment Year : 2018-19

| | | |
|--|-----|-------------------------------|
| Trident Academy of Creative Technology, A-127, Sahidnagar, Bhubaneswar | Vs. | CIT (Exemption), Hyderabad |
| PAN/GIR No.AABTT 0273 H | | |
| (Appellant) | .. | (Respondent) |

Assessee by : Shri P.C.Sethi, Adv
Revenue by : Shri Sanjay Kumar, CIT DR

Date of Hearing : 15/07/2024
Date of Pronouncement : 15/07/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(Exemption), Hyderabad dated 29.3.2023 passed under section 263 of the Act in Appeal No,ITBA/Rev/F/Rev5/2022-23/1051543667(1) for the assessment year 2018-19.

2. Shri P.C.Sethi, Id AR appeared for the assessee and Shri Sanjay Kumar, CIT DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is a charitable society which is imparting engineering studies. It was the submission that for the

relevant assessment year, the assessee had filed its return of income on 23.10.2018. The return of income came to be processed u/s.143(1) of the Act. In the course of the assessment proceedings u/s.143(3) of the Act, on 10.5.2019, the Assessing officer had called for certain clarifications by issuance of show cause notice, wherein, issues of accumulation of income by the Trust had also been examined. It was the submission that notice u/s.143(2) of the Act came to be issued on 22.9.2019. Further, notice u/s.142(1) of the Act came to be issued on 25.11.2020, wherein, various details as mentioned in the annexures thereto were called for, copy of the same reads as follows:

Government of India
Ministry of Finance
Income Tax Department,
National e-Assessment Centre,
Delhi

To
Trident Academy of Creative Technology,
A-127, Sahidnagar, Bhubaneswar.
Khurdha-751007, Orissa

PAN No.AABTT0273 H Asst.Yr-2018-19 Dt.25.11.20
Din; ITBA/AST/F/R142910/2020-21/1028734267(1)

Notice under sub-section (1) of Section 142 of the Income Tax Act,1961 .

Dear Taxpayer,

Kindly refer to notice u/s.143(2) of the income Tax Act, dated 22.9.2019 for A.Y. 2018-18 for conducting assessment proceedings under E-assessment Scheme 2019.

2. We appreciate the anxiety and uncertainty that is facing all of us in the times of Covid-19. This communication is to assist you in ending one uncertainty, which is pending e-assessment in your case for the assessment year 2018-19.

3. You are requested and required to kindly furnish or cause to be furnished on or before 10/12/2020 AM, the accounts and documents specified in the annexure to this notice.

4. The accounts or documents, as mentioned above, are required to be submitted online electronically in e-proceedings facility through your account in e-filing website (www.income-taxindiaefilign.gov.in).

Yours faithfully,

Add/Joint/Deputy/.Asst. Commissioner of Income Tax,
National e-Assessment Centre, Delhi

ANNEXURE

With respect to the assessee trust, kindly submit/attach/upload the following documents/information"

1. Brief note on activities undertaken (Main and incidental objects)
2. Address of main and branch offices (if any)
3. Copy of 12A/12AA/10(23C) registration/approval letter/certificate given by the respective registration/approval authority.
4. Copy of audited financial statements alongwith schedules to the accounts
5. Details of amounts accumulated of A.Y. 15-16, 16-17, 17-18 & 18-19. Purpose for which such amounts have been accumulated and the amounts utilized out of the said accumulations alongwith proofs/supporting documents for the utilizations.
6. Details of voluntary contributions other than corpus of INR 92,12,637/- alongwith ledger copy/copies.
7. Details source of income and activities from which income is arising with respect to aggregate income of INR 10,32,81,661/- as disclosed in the Income tax Return alongwith ledger copies of the same.
8. Details of amounts applied-revenue to the extent of INR 4,37,84,061/- in the income tax return along ledger copies.
9. Details of amount accumulated/set apart of INR 1,39,23,764/- as per income tax return. Mode of investing the said accumulated amount alongwith proof/supporting documents.
10. Details of amount accumulated/set apart of INR 5,00,00,000 apart from point 9 above. Purpose for which such amount has been accumulated/set apart. Mode of investing the amount and proof/supporting documents for the said amount.
11. Copy of Bank statement/statements for the year under consideration."

4. It was the submission that these queries were replied to by the assessee on 27.11.2020 alongwith various annexure and bank accounts. Ld

AR took us through the replies to the notice issued u/s 142(1) and 143(2) of the Act. It was the submission that after examining all these details, the Assessing Officer completed the assessment u/s.143(3) of the Act on 19.2.2021 accepting the returned income. It was the submission that the said assessment order was the subject matter of revision u/s.263 of the Act by the Id CIT(E), Hyderabad on the ground that the Assessing Officer in the course of Face Less Assessment had not examined the issue of accumulation of Rs.5,00,00,000/- during the relevant assessment year as also had not considered the difference of interest income of Rs.19,15,625/-. It was the submission that both the issues had been specifically considered by the Assessing officer. It was the submission that the amount of Rs.5,00,00,000/- was the accumulation and the same was maintained in the Schedule Bank of the assessee in Flexi/Saving account and this had been specifically queried by the Assessing officer and same was also answered and was examined with the bank account and accepted by the Assessing Officer. It was the submission that in respect of differential interest income, the assessee has clearly mentioned that the interest received was actually Rs.1,10,63,734/- whereas as per the income and expenditure account, the receivable was Rs.1,29,78,999/-. It was the submission that the said interest income of Rs.19,15,625/- was nothing but the interest that was liable to be received by the assessee as accrued interest on various deposits maintained by the assessee. It was the submission that this was specifically

queried by the Assessing Officer and replies by the assessee were examined in-depth by the Assessing Officer and accepted in the scrutiny assessment. It was the submission that the Id CIT(E) when called for the record of the assessee, would have noticed the evidence in the files. It was the submission that the fact that Id CIT(E) has not examined any of the evidence submitted by the assessee in the course of assessment proceedings itself makes the revisionary proceedings invalid. It was the submission that the issue having been examined by the Assessing Officer in the course of Face Less Assessment Proceedings and having been accepted by the Assessing Officer, the view now expressed by Id CIT(E) is nothing but an attempt to impose his opinion over that of the Assessing Officer. It was the submission that the proceedings as done by Id CIT(E) by invoking the provisions u/s.263 of the Act is liable to be quashed.

5. In reply, Id CIT DR vehemently supported the order of the Id CIT(E). It was the submission that the Assessing Officer had not examined the issue of accumulation of Rs.5,00,00,000/- in depth. It was the submission that the Assessing Officer had also not examined the actual difference between the interest income earned by the assessee and as accrued by the assessee as to whether the assessee was liable to be taxed in respect of differential amount of Rs.19,15,625/-. It was the submission that the order of the Id CIT(E) is liable to be upheld.

6. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that both the issues which have been raised by Id CIT(E) have been specifically queried to by the Assessing Officer in the course of original assessment proceedings. These queries have also been answered substantiated with documentary evidence. The Assessing Officer in the course of Face Less Assessment would have obviously had this documentary evidence verified by the Verification Unit. There is no allegation by Id CIT(E) that these documents and evidences were not verified by the Verification Unit of the Face Less Assessment Proceedings. The issues which have been raised by Id CIT(E) in his order u/s.263 have clearly been examined by the Assessing Officer in the course of assessment proceedings, it cannot be said that there has been no application of mind by the Assessing Officer. Further, a perusal of the order of the Id CIT(E) does not show as to what is the specific error which has been done by the Assessing Officer has led to prejudice the interest of the revenue. Now, if at all, the interest income of Rs.19,15,625/- is also considered as income still the application would stand at 85% and the exemption of 15% would still cover this income of Rs.19,15,625/- and income itself would be exempt. The amount of Rs.5,00,00,000/- admittedly have been clearly shown to be held in fixed deposit and in Flexi account with scheduled bank. This being so, we are of the view that the order passed u/s.263 is only a fishing enquiry on an issue which has already been examined in depth by the

Assessing Officer in the course of assessment, which is not permissible in the proceedings u/s.263 of the Act. This being so, the order u/s.263 of the Act by Id CIT(E) for the impugned assessment year stands quashed.

7. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 15/07/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER
Cuttack; Dated 15/07/2024
B.K.Parida, SPS (OS)

sd/-
(George Mathan)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant : Trident Academy of Creative Technology, A-127, Sahidnagar, Bhubaneswar
2. The Respondent: CIT (Exemption), Hyderabad
4. Pr.CIT, Bhubaneswar
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary,
ITAT, CUTTACK