

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"K" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&

SHRI RAHUL CHAUDHARY, HON'BLE JUDICIAL MEMBER

I.T.A. No. 2375/Mum/2024

Assessment Year: 2015-16

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| The Vasai Blind Relief Association, Vasai Vasai Eye Hospital Parnaka, Azad Road Vasai (West) Maharashtra - 401201 [PAN: AAATT1474H] | Vs | ITO Exemption, Thane |
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| अपीलार्थी/ (Appellant) | प्रत्यर्थी/ (Respondent) |
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| Assessee by : | Shri Subodh Ratnaparkhi, A/R |
| Revenue by : | Shri Kiran Unavekar, Sr. D/R |

सुनवाई की तारीख/Date of Hearing : 29/07/2024
घोषणा की तारीख /Date of Pronouncement: 29/07/2024

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order dt. 15/03/2024 by NFAC, Delhi, pertaining to Assessment Year 2015-16.


2. The grievance of the assessee reads as under:-

"1. The Hon. CIT(A) erred in passing the appeal order u/s 250 on 15.03.2024, when the last date of appeal hearing was on 18.03.2024 and therefore by passing the appeal order before the date of appeal hearing, the Hon. CIT(A) has denied the appellant natural justice and for this reason the order passed u/s 250 on 15.03.2024 is bad-in-law, void-ab-initio and is required to be quashed.

2. The Hon. CIT(A) erred in upholding the addition of Rs. 19,24,720/-, without appreciating that being a trust registered u/s 12AA of the IT Act 1961, the income of the appellant was required to be computed after granting exemptions/deductions provided under provisions of section 11 & 12 of the I. T. Act 1961 and as the original return of income for A.Y. 2015-16 was filed within the time limit provided by section 139(1) of the I. T. Act, 1961, there is no cause to deny the benefit of said exemptions provided by the I. T. Act, 1961.

3. The appellant craves leave to add, alter, amend, delete and/or vary any of the above grounds of appeal at any time before the decision of the appeal."

3. The peculiar facts of the case in hand are that the NFAC, Delhi, issued the following notice:-

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|  <p>भारत सरकार / GOVERNMENT OF INDIA वित्त मंत्रालय / MINISTRY OF FINANCE आयकर विभाग / INCOME TAX DEPARTMENT राष्ट्रीय पहचान विहीन अपील केन्द्र / NATIONAL FACELESS APPEAL CENTRE (NFAC) दिल्ली / DELHI</p> | |
| Notice under section 250 of the Income-tax Act, 1961 | |
| AAATT1474H | DIN: ITBA/NFAC/F/APL_1/2023-24/1062458123(1) |
| THE VASAI BLIND RELIEF ASSOCIATION | Date: 12/03/2024 ✓ |
| THE VASAI BLIND RELIEF ASSOCIATION AZAD ROAD ,PARNAKA VASAI (W) THANE 401201 ,Maharashtra India | Appeal No:CIT (A), Thane- 1/10115/2018-19 Assessment Year:2015-16 |
| Why are you getting this communication? | |
| Dear Appellant, This communication is in connection with the above referred appeal preferred by you against the order under section 154 of the Income-tax Act,1961 passed by EXEMPTION WARD, THANE vide DIN No. 002 005 on 31/05/2018 for the Assessment Year 2015-16. | |
| What you need to do? | |
| In support of your <i>Grounds of Appeal</i> , you are requested to furnish or cause to be furnished Ground-wise written submission, along with supporting documentary evidence(s) and/or documents as specified in the attached Annexure, if any. | |
| How will you produce the submission and documents? | |
| You may furnish or cause to be furnished the above written submission(s) and documents electronically in 'E-proceedings' facility through your account in e-Filing Website (www.incometax.gov.in). | |
| What steps should you taken for furnishing the written submission(s) and documents(s) electronically? | |
| You may refer to the Help Guide available at following path at e-filing portal for step-by-step instructions for furnishing the written submission(s) and documents(s) electronically. Navigation Path: e-filing Portal Home (https://www.incometax.gov.in)-->Help-->General Help --> e-proceeding-Plan for Paperless Proceeding | |
| Is there any time limit involved? | |
| The above written submissions may please be furnished on or before 18/03/2024. ✓ | |
| What if we do not hear from you? | |

VASAI BLIND RELIEF ASSOCIATION
Azad Road, Parnaka,
Vasai (W), Dist. Palghar - 401 201

CERTIFIED TRUE COPY
[Signature]
MANAGING TRUSTEE

AAATT1474H- THE VASAI BLIND RELIEF ASSOCIATION
A.Y. 2015-16 - CIT (A), Thane- 1/10115/2018-19
ITBA/NFAC/F/APL_1/2023-24/1062458123(1)

If no submissions/information/documents is/are received within the stipulated time period, it will be presumed that you have nothing to say in this matter. The Department may proceed ahead based on material available on record.

Yours faithfully,

Commissioner of Income-tax (Appeals)
Income Tax Department

4. A close perusal of the aforementioned notice shows that it was issued on 12/03/2024 asking the assessee to furnish the details on or before 18/03/2024. Surprisingly, without waiting for the due date, the NFAC passed the appellate order on 15/03/2024, making the issuance and service of the aforementioned notice futile.

5. In our considered opinion, the NFAC should restrain from passing such orders which are in gross violation of principles of natural justice. Once a notice of hearing is given, it becomes incumbent upon the issuing authority to follow the Rule of law and wait for the response. Passing the order prior to the date, is gross injustice to the assessee. Therefore, in the interest of justice, we restore the issue to the file of the Id. CIT(A)/NFAC with a direction to decide the appeal afresh after affording reasonable and adequate opportunity of being heard to the assessee.

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

Order pronounced in the Court on 29th July, 2024 at Mumbai.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 29/07/2024

Sd/-

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. ँ पीलरुी / The Appellant
2. प्रत्यरुी / The Respondent
3. संबंघित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (ं पील) / The CIT(A)-
5. विभरुीय प्रतिनिधि ,आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai