

IN THE INCOME TAX APPELLATE TRIBUNAL, "F" BENCH  
MUMBAI  
BEFORE SHRI BR BASKARAN, ACCOUNTANT MEMBER &  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 2819/MUM/2024  
(A.Y.2017-18)

Film Set Light Spot Welfare Society, Flat No.101, C Wing, 1 <sup>st</sup> Floor, Om Swarup CHSL, Kadamwadi, Marol Pipeline, Andheri(East), Mumbai-400059.	Vs.	ITO (Exemption) -1 (3) 6 <sup>th</sup> Floor, MTNL, Ex Building, Cumballa Hills, Pedder Road, Mumbai-400026.
PAN/GIR No. AAACF8676L		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by	Shri Hitesh Shah.AR
Respondent by	Ms. Rajeswari Menon Sr. DR

सुनवाई की तारीख/Date of Hearing	15.07.2024
घोषणा की तारीख/Date of Pronouncement	16.07.2024

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The assessee has filed the appeal against the order of the National Faceless Appeal Centre(NFAC) Delhi /CIT (A) passed u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

*“1 . The Hon. CIT(A) ought to have appreciated the fact that appellant could not represented its case due to circumstances beyond its control.*

*2 The Hon. CIT(A) was not justified in summarily rejecting the appeal without considering the submissions filed on 23/06/2023.*

*3 The Hon. CIT(A) and the Ld. AO were not justified in disregarding the fact that assessee was non-profit company registered U/S.25 of the Companies Act and had also received registration U/S.12A.*

*4 The Ld. AO erred in denying exemption U/S.11 of the Income Tax Act.*

*5 The Ld. AO was not justified in considering the interest received of Rs.55,49,340/- as income from other sources”*

2. The brief facts of the case are that, the assessee is a welfare society registered u/sec12A of the IT Act. The assessee has filed the return of income for the A.Y 2017-18 on 02.09.2017 disclosing a total income of Rs. Nil after claiming exemption u/sec11 of the Act. Subsequently the case was selected for scrutiny and notice u/sec 143(2) and u/sec 142(1) of the Act along with questionnaire was issued. In compliance to the notice, the assessee has filed details and financial statements supporting the income tax return filed. The Assessing Officer (A.O) on perusal of information find that the objects and activities of the society are no longer a charitable institution after amendment u/sec2(1) of the Act w.e.f.A.Y.2009-10 and in such circumstances the society activities are to be

considered on principle of mutuality and the assessee filed the detailed reply vide letter dated 26.11.2019 referred at page 2 Para 5.1 of the order. Whereas the assessing officer was not satisfied with the explanations and dealt on the facts and relied on the judicial decisions at Page 4 Para 5.2 to 5.5 of the order and brought to tax interest income of Rs.53,23,756/- and denied the exemption u/sec11 of the Act and assessed the total income of Rs.55,49,340/-and passed the order u/sec143(3) of the Act dated 2-12-2019.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has condoned the delay in filling the appeal and further issued notices of hearing and since there was no proper compliance to the notice and the assessee seeking adjournment for furnishing the submissions. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the information of the assessment proceedings and non representation before the CIT(A) was due to circumstances beyond the control of the assessee.

Further the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower authorities. Per Contra, the Ld.DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no proper compliance nor representation in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The Ld. CIT(A) has issued the notices of hearing on 23.12.2020, 20.01.2021, 05.04.2023, 25.04.2023, 04.05.2023 & 24.05.2023 referred at Page 2 Para 3 of the order but there was no proper response and asking to grant time for furnishing the written submissions and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the additions made by the A.O and there could be various reasons for non appearance which cannot be overruled. Therefore, considering the facts and principles of natural justice, we shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and

information. Accordingly, set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of the Appeal. Accordingly, we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 16.07.2024.

Sd/-  
**(BR BASKARAN)**  
**ACCOUNTANT MEMBER**

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

Mumbai, Dated: 16/07/2024

KRK

**Copy of the Order forwarded to:**

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,  
(Dy./Asstt. Registrar)ITAT,  
Mumbai