

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस.आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:1411/CHNY/2024

निर्धारण वर्ष/Assessment Year: 2019-20

**M/s. Arulmigu Siddhi  
Vinayagar Temple Trust,**  
No.159, Mohan Ram Nagar,  
Mogappair, Chennai – 600 037.

**The Income Tax Officer,**  
Vs. Exemptions Ward 3,  
Chennai.

**PAN: AAHTA 6982E**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri J. Prabhakar, FCA

प्रत्यर्थी की ओर से/Respondent by

: Smt. M.S. Deeptha, JCIT

सुनवाई की तारीख/Date of Hearing

: 07.08.2024

घोषणा की तारीख/Date of Pronouncement

: 07.08.2024

**आदेश /ORDER**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax, appeal, Addl/JCIT (A)-1, Nashik, in ITBA/APL/S/250/2023-24/ 1062710174(1) dated 15.03.2024. The return of income for the assessment year 2019-20 was processed by the CPC, Bengaluru and intimation u/s.143(1) of the Income Tax Act, 1961 (hereinafter the 'Act') was issued vide order dated 11.05.2020.

2. The only issue in this appeal of assessee is against the order of CIT(A) confirming the action of the AO in treating the entire gross receipt of Rs.12,93,950/- as taxable receipt without allowing expenses claimed at Rs.13,27,931/- towards object of the trust in the absence of registration granted u/s.12AA of the Act.

3. Brief facts are that the assessee Arulmigu Siddhi Vinayagar Temple Trust (PAN No.AAHTA6982E) is a religious trust. It filed its return of income for the relevant assessment year 2019-20 in the status of AOP(Trust) in ITR -7 declaring 'nil' income. The assessee filed return of income claiming income is exempt u/s.11 of the Act. The return of income filed was a belated return as it was filed beyond the due date of filing of return of income u/s.139(1) of the Act, which was 31.08.2019 instead the same was filed on 31.12.2019. The CPC, Bengaluru issued a letter dated 06.02.2020 pointing out to the assessee that there is no details of registration of this trust u/s.12A of the Act and therefore claim of exemption u/s.11 of the Act was denied and entire receipt was assessed as income and hence, total income was determined at Rs.12,93,950/- vide intimation dated 11.05.2020 processed u/s.143(1)of the Act. The assessee did not have registration u/s.12A of the Act admittedly but it carried out the matter in appeal before CIT(A) and claimed that

the assessee should be allowed set off of expenses incurred in connection with earning of this income being gross receipts from donations, which is a religious trust even in the absence of recognition u/s.12A of the Act, which ultimately granted on 22.07.2023. The CIT(A) without going anything on merits just confirmed intimation passed u/s.143(1) of the Act by observing in para 6.3 as under:-

*“6.3 Ground No.2, 3 and 4 are related to not considering the entire expenses incurred Rs.1327932/-. It is observed that the appellant filed its return of income in ITR-7 and claimed exemption u/s.11 of the Act. Further, it is also observed that the appellant is not registered u/s 12AA of the Act. So, it is not eligible to get exemption u/s 11 of the Act. Hence exemption u/s.11 of the Act is denied by the CPC. In this regard the action of the CPC is justified. Therefore, the denial of exemption u/s 11 by the CPC is justified and the same is upheld. Accordingly, Ground no.2, 3 and 4 raised by the appellant are dismissed.”*

4. As regards to treating the revised return as invalid by CIT(A), we hereby state that the return has been processed by CPC, Bengaluru u/s.143(1) of the Act and based on the belated return and that return was not treated as defective/invalid by the CPC itself. Hence, there is no issue arising to the same and the CIT(A) has exceeded his jurisdiction in treating the same as invalid. However, we are of the view that the assessee's claim is very genuine that albeit being not recognized as a trust u/s.12A of the Act for the relevant assessment year 2019-20, the AO should have set-off expenses incurred in connection with the revenue earned by

assessee being gross receipts from donations or whatever means, which is reflected in the audited accounts of the assessee. The AO is directed to assess the same as a normal business income and allow the business expenses after due verification of business expenses whether the same are genuine or not. Hence, we set aside the order of CIT(A) and that of the CPC, Bengaluru passing intimation u/s.143(1) of the Act processing the return and direct the AO to reframe the assessment after verification of genuineness of expenses. In case, expenses are genuine, the AO will allow the expenses. The assessee is also directed to file relevant details as required by the AO. In term of the above, this appeal of the assessee is set aside to the file of the AO and direct him to redo the assessment accordingly.

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

Order pronounced in the open court at the time of hearing on 7<sup>th</sup> August, 2024 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

**(S.R. RAGHUNATHA)**

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 7<sup>th</sup> August, 2024

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.