

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 710/Bang/2024
Assessment Year : 2018-19

M/s. Indian Red Cross Society, No. 26, Red Cross Bhavan, 1 st Floor, Race Course Road, Bangalore – 560 001. PAN: AAAJI0208G	Vs.	The Deputy Commissioner of Income Tax (Exemptions), Circle – 1, Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Vineeth Gandhi, Advocate & Shri Sandeep Chalapathy, CA
Revenue by	:	Ms. Neha Sahay, JCIT-DR

Date of Hearing	:	22-07-2024
Date of Pronouncement	:	12-08-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

This appeal is filed by the assessee against order of NFAC for the assessment year 2018-19 dated 21.02.2024.

2. The only solitary issue raised by the assessee is on sustaining addition of Rs.1,60,26,047/- without granting exemption u/s 11 of the Act though the assessee was registered u/s. 12AA of the Act. It is submitted that the deduction was denied as the assessee did not file Form 9A within the time limit prescribed u/s. 139(1) of the Act.

2.1 At the time of hearing, the Ld.AR submitted that no proper opportunity was granted to the assessee and order was passed by NFAC ex-parte and prayed that one more opportunity may be given in the interest of justice.

The Ld.DR strongly opposed the plea of the assessee and submitted that the issue may be decided on merit.

3. After hearing both the parties, in our opinion, it is appropriate to remit this issue in dispute to the file of NFAC/CIT(A) to decide the same after giving an opportunity of hearing to the assessee. It is submitted that due date to file the return of income was 30.09.2018, however the assessee filed return of income on 30.10.2018 along with Form 9A with a delay of 30 days. It is also noted from the submissions made before the Ld.PCIT(E) that the assessee filed application dated 19.10.2020 to condone the delay which is still pending.

3.1. We note that there is delay of approximately 30 days in filing the return of income along with Form 9A. However it is noted

that the assessee has furnished the return along with Form 9A within the time limit permitted under section 139(4) of the Act.

3.2. The provisions of Section 139(4) of the 1961 Act provides that in case return of income could not be **filed** within due date for **filing** of return of income as stipulated u/s. 139(1), the return of income can be **filed** before the end of the assessment year, which reads as under:

“139 (4) Any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.”

3.3. Reference is also drawn to provisions of Section 139(4A) which regulate **filing** of return of income by trusts, which reads as under:—

*“139(4A) Every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes, or of income being voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2, shall, if the total income in respect of which he is assessable as a representative assessee (the total income for this purpose being computed under this Act without giving effect to the provisions of sections 11 and 12) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed **form** and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).”*

3.4. Thus the section 139(4A), *inter-alia*, provides that all provisions of the Act shall, so far as may be, apply as if it were a return of income required to be furnished u/s. 139(1) of the 1961

Act. We therefore direct the Ld.CIT(E) to consider the delay in light of the above provisions and decide the issue on merits of the addition.

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

Order pronounced in the open court on 12th August, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 12th August, 2024.
/MS /

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

By order

Assistant Registrar,
ITAT, Bangalore