

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "SMC", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1315/PUN/2024

निर्धारण वर्ष / Assessment Year : 2019-20

Sandvik Asia Employee Mutual Benefit Fund, Mumbai-Pune Road, Dapodi, Pune 411 012, Maharashtra PAN : AACTS8402N	Vs.	ITO, Exemption Ward-1(2), Pune
Appellant		Respondent

Assessee by : Smt. Deepa Khare  
Revenue by : Shri Ratnakar Shelake  
Date of hearing : 29.08.2024  
Date of pronouncement : 29.08.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the appellant directed against the order of Addl/JCIT(A)-1, Guwahati dated 29.03.2024 for the assessment year 2019-20.

2. Brief facts of the case are that the appellant is a Mutual benefit Fund concern formed by the employees of Sandvik Asia for their mutual benefit. The object of the Fund is to provide combination of Welfare, Social security and Charitable benefits of its members being employees of SANDVIK ASIA. The fund is approved u/s.10(23AAA) of the Income-tax Act, 1961 (hereinafter also called 'the Act') for the period A.Y. 2005-06 to 2007-08 and the appellant sought renewal of the approval vide application filed on 25.10.2007 with the Office of CIT-V, Pune. The Return of Income for the A.Y.

2019-20 was filed on 17.10.2019 declaring Nil income after claiming exemption u/s.10(23AAA) of Rs.34,10,669/-. The said return of income was processed by the CPC u/s.143(1) vide intimation dated 04.06.2020 after making adjustment of disallowance of exemption u/s.10(23AAA) claimed by the appellant.

3. Being aggrieved by the said intimation, an appeal was filed before the Addl/JCIT(A), who vide impugned order dismissed the appeal by holding as under :

“6.2 In the instant case, the appellant has preferred appeal against the action taken under the provisions of section 143(1) wherein only specified adjustment can be made to the extent of information available in the return of income. From the plain reading of the above provisions, it is unambiguous that the issue of applicability of principle of mutuality cannot be applied at the stage of 143(1) of the Act. Therefore, no adjudication on the ground is made.”

4. Being aggrieved, the appellant is in appeal before the Tribunal in the present appeal.

5. At the outset, I find that there is delay of 19 days in presenting the appeal before the Tribunal. The appellant had filed an affidavit praying for condonation of delay by stating that the Chairman of the society was out of station. The ld. Sr. DR has no serious objection to condone the delay. In the circumstances, I am of the considered opinion that it is a fit case to condone the delay as there is no material on record to show that the appellant is guilty of laches or negligence or deliberately delayed the filing of the appeal. I therefore condone the delay of 19 days and admit the appeal for adjudication.

6. I had carefully perused the impugned order and heard both the sides. The CPC while processing the return of income u/s.143(1),

made adjustment by disallowance of claim for deduction u/s.10(23AAA) of the Act. From mere perusal of the intimation, it would be clear that no reasons whatsoever were assigned by the CPC for making the above adjustment. On appeal, the CIT(A) dismissed the appeal by giving the finding extracted (supra). On mere reading of the finding of the CIT(A), it would be crystal clear that having adjudicated the issue by holding that it is beyond the purview of the CPC at the stage of processing the return u/s.143(1), the CIT(A) ought not to have held that no adjudication is made. Thus, the order of CIT(A) suffers from ambiguity. Therefore, the matter is restored to the file of CIT(A) to decide the issue in appeal *denovo* in accordance with law.

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

Order pronounced on this 29<sup>th</sup> day of August, 2024.

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 29<sup>th</sup> August, 2024.

*Satish*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.