

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'SMC' Bench, Hyderabad

Before Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No.738/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2020-21)

Sri Laxmi Narsimha Temple Nalgonda PAN:AAHAS4698G (Appellant)	Vs.	Income Tax Officer (Exemption) Ward 1(2) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by:		Advocate T Chaitanya Kumar
राजस्व द्वारा/Revenue by::		Shri S.P.G. Mudaliar, DR
सुनवाई की तारीख/Date of hearing:	04/09/2024	
घोषणा की तारीख/Pronouncement:	04/09/2024	

आदेश/ORDER

This appeal filed by the assessee is directed against the order dated 12/06/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2020-21.

2. The brief facts of the case are that the assessee Sri Laxmi Narsimha Swamy Temple filed its return of income for the A.Y 2020-21 on 26.03.2021 declaring total income of Rs.47,25,542/- and tax payable at Rs. Nil. The assessee is a Trust that was constituted on 1.4.2010 by the Trust Deed. The appellant trust is managed by the Endowment Department, Govt.

of Telangana. During the financial year relevant to A.Y 2020-21, it has earned gross income of Rs.2,24,53,103/-from various sources including Hundi collection. The appellant has spent an amount of Rs.1,43,59,596/- towards meeting the objects of the Temple. The balance amount of Rs.47,25,542/- has been invested in FDs of Nationalized Banks. However, the appellant neither filed Form 10 explaining the purpose of accumulation of income u/s 11(2) of the Act, nor filed any details of investment in FDs before the Assessing Officer. Therefore, the Assessing Officer has passed the order u/s 143(3) of the I.T. Act, 1961 on 5.9.202 and determined the total income at Rs.47,25,541/-.

3. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT (A) and challenged the additions made by the Assessing Officer. The learned CIT (A) after considering the relevant provisions of section 11(2) and 11(5) of the Act, observed that mere investments in FD is not sufficient to claim exemption u/s 11 of the I.T. Act, 1961, but the appellant needs to accumulate income in terms of section 11(2) by filing Form 10. Since the appellant has not filed Form 10 indicating the reasons for accumulation of income, the learned CIT (A) sustained the addition made by the Assessing Officer.

4. Aggrieved by the order of the learned CIT (A), the assessee is in appeal before the Tribunal.

5. The learned Counsel for the assessee submitted that the appellant has not filed Form No.10 either with return of income or at assessment/appellate stages, but said Form-10 has been filed on 17/06/2024 along with resolution of the Executive Committee indicating accumulation of income of Rs.47,25,542/- for the purpose of objects of the Trust and also filed relevant proof of investment u/s 11(5) of the Act. The learned Counsel for the assessee submitted that the appellant has also filed a petition for condonation of delay in filing Form 10 before the Pr. Commissioner of Income Tax (Exemption) New Delhi on 27/06/2024 and said petition is pending for disposal. Therefore, the issue may be set aside to the file of the Assessing Officer and to decide issue after disposal of petition filed by the assessee for condonation of delay.

6. The learned DR, on the other hand, referring to the application filed by the assessee submitted that the appellant itself has admitted income of Rs.47,25,542/- and the Assessing Officer accepted the income returned by the assessee. He further submitted that the appellant has filed Form 10 along with a resolution for the inordinate delay. Further, the petition for condonation of delay is also filed after a gap of more than 4 years. Therefore, there is no reason to give another opportunity to the assessee and the order of the learned CIT (A) should be upheld.

7. I have heard both the parties, perused the material available on record and gone through the orders of the authorities below. The appellant is a Trust managed by Endowment Department, State Govt. of Telangana. The appellant manages a temple called Sri Laxmi Narsimha Swamy Temple. As per the objects of the appellant Trust, the surplus, if any, is fully applied for the benefit of general public at large and no part of the income has been used or given for the benefit of any Trustees or Executive Committee Members. Further, it is also an admitted fact that the assessee itself has declared surplus income of Rs.47,25,542/- and has not paid any tax which is evident from ITR Form filed for the impugned A.Y. The appellant argues that by mistaken of law and also in absence of necessary staff who can do the relevant work, the appellant could not exercise the option u/s 11(2) and filed Form 10 along with return of income. Otherwise, as per resolution of the executive committee dated 1.8.2019, income has been accumulated for the objects of the Trust in terms of section 11(2) and also the amount has been invested in specified securities being FD as per section 11(5) of the Act. We find that the appellant has filed Form 10 on 17.06.2024 along with resolution dated 1/8/2019. The appellant has also filed petition for condonation of delay on 27.06.2024 before the concerned authority and the said application is pending for disposal. Therefore, considering the facts and circumstances of the case and also considering the fact that the appellant Trust is managed by Endowment Department, Govt. of Telangana and the

sole objective of the appellant is to provide benefit to the general public at large, in my considered view, an opportunity should be given to the assessee to see the outcome of the petition filed by the appellant for condonation of delay in filing Form 10. Therefore, I set aside the order passed by the learned CIT (A) and restore the issue back to the file of the Assessing Officer and direct the Assessing Officer to reconsider the issue in light of Form 10 filed by the assessee along with resolution of executive committee, after disposal of application filed by the appellant for condonation of delay in filing Form 10 before the Pr. CIT (Exemption) New Delhi.

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

Order pronounced in the Open Court on 4th September, 2024.

Sd/-

**(MANJUNATHA, G.)
ACCOUNTANT MEMBER**

Hyderabad, dated September, 2024.
Vinodan/sps

Copy to:

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3	Pr. CIT – (Exemption) New Delhi/Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order