

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT
AND SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.881/Bang/2024
Assessment Year : 2021-22

Sree Siddaganga Matha Educational Association., 2347, Siddalingeshwara Nagar, Davanagere City S.O, Davanagere – 577 002.	Vs.	The Income Tax Officer, (Exemptions), Ward – 1, Hubli.
PAN – AANTS 1958 G		
APPELLANT		RESPONDENT

Assessee by	:	Shri K Kotresh, C.A
Revenue by	:	Shri Ramanathan, Addl. CIT (DR)

Date of hearing	:	12.06.2024
Date of Pronouncement	:	03.09.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the Addl./JCIT (A) – 10, Mumbai dated 14/03/2024 in DIN No. ITBA/APL/S/250/2023-24/1062657260(1) for the assessment year 2021-22.

2. The only issue raised by the assessee is that the Id. CIT(A) erred in denying the exemption claimed u/s 11(2) of the Act, though the Form 10 was filed manually within the stipulated time.

3. In the present case, the assessee has filed its return of income after claiming the amount set apart for Rs. 1,60,50,000/- under the provisions of sec. 11(2) of the Act but the same was denied while processing the return u/s 143(1) of the Act in the absence of form 10 filed electronically.

4. On appeal, the Id. CIT(A) confirmed the intimation generated u/s 143(1) of the Act.

5. Being aggrieved by the order of the Id. CIT(A), the assessee is in appeal before us.

6. The Id. AR before us contended that at the relevant point of time, there was no option available to file Form 10 in pursuance to the provisions of sec. 11(2) of the Act while filing the return of income online. Therefore, the assessee has filed Form 10 manually before the due date of filing the Income-tax return. The Id. AR in support of his contention filed the acknowledgment of the post office demonstrating that Form 10 was sent to the jurisdictional AO dated 25/02/2022, whereas the date for return filing was 15-03-2022 for the year under consideration.

7. On the other hand, the Id. DR vehemently supported the orders of the authorities below.

8. We have heard the rival contentions of both the parties and perused the materials available on record. It is a fact on record that the assessee has filed Form 10 manually before the due date of filing the

return of income with the jurisdictional AO, therefore, we are of the view that the assessee cannot be denied the benefit claimed by it u/s 11(2) of the Act. In holding so, we draw support and guidance from the order of this Tribunal in the case of Navodaya Education Trust Vs. DCIT reported in [2021] 130 taxmann.com 256 (Bangalore – Trib.), wherein it is held as under:

"30. However; in the present case, the assessee has not filed Form 10 manually before the due date of filing return of income u/s. 139(1) of the Act. Being so, the decisions relied on by the id. AR supra are of no assistance to the assessee. On this count, in our opinion, it is mandatory on the part of assessee to file Form 10-' manually though not electronically before the due date of filing of return of income with the jurisdictional AO. Since the assessee has even failed to file Form 10 manually, the assessee cannot seek to rectify the order of intimation passed u/s. 143(1) in the petition filed u/s. 154 on 11-1-2018. Accordingly, the first ground of assessee is dismissed."

8.1 In view of the above and respectfully following the order of this Tribunal, we set aside the findings of the Id. CIT(A) and direct the AO to allow the benefit of exemption u/s 11(2) of the Act as claimed by the assessee as per the provisions of law. Hence, the ground of appeal filed by the assessee is partly allowed for statistical purposes.

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

Order pronounced in court on 3rd day of Sept, 2024

Sd/-

(GEORGE GEORGE K)

Vice President

Bangalore,

Dated, 3rd Sept, 2024

/ vms /

Sd/-

(WASEEM AHMED)

Accountant Member

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore