

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

**Shri Sonjoy Sarma, Judicial Member
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No. 1304/Kol/2024
Assessment Year: 2022-23**

**Maa Saraswati Research and
Development Trust,**

358, P.K. Guha Road,
PO Dumdum, Kolkata - 700028

[PAN: AAFTM4040H] **Appellant**

vs.

ITO, Ward-43(1), Kolkata,

3, Government Place West,

Kolkata - 700001 **Respondent**

Appearances by:

Assessee represented by : Manish Tiwari, FCA

Department represented by : Prabhakar Prakash Ranjan, Add. CIT,
Sr. DR

Date of concluding the hearing : September 10, 2024

Date of pronouncing the order : September 11, 2024

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2022-23 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Ld. Commissioner of Income Tax (Appeals), Addl./JCIT(A)-1, Jaipur, dated 09.04.2024 arising out of intimation order dated 04.04.2023, passed under Section 143(1) of the Act.

2. The Assessee has raised the following grounds of appeal:

"1. a) That on the facts and in the circumstances of the case, Ld. CIT(A) has erred in dismissing appellant's appeal which was filed in delay due to compelling reason.

(b) That on the facts and in the circumstances of the case, Ld. CIT(A) has erred in dismissing the appellant's appeal on the ground that the appeal was filed beyond the time limit with delay of 1 year.

2. That on the facts and in the circumstances of the case, Ld. CI.T. (A) is wrong and unjustified in dismissing appeal without any discussions on the merits of additions/disallowances made by Ld. AO, CPC, towards exemptions claimed by the appellant.

3. That on the facts and in the circumstances of the case, Ld. AO, CPC, has erred in disallowing exemption u/s. 11(1)(a) of I.T. Act, 1961, towards application of income at Rs. 3,01.50.738/-as per Audited Accounts.

4. That the appellant craves leave to add, alter, adduce or amend any ground or grounds on or before the date of hearing."

3. At the outset, the Ld. AR of the assessee stated that the impugned order passed by the Ld. CIT(A) has erred in law by dismissing the appeal of the assessee simply on the ground that appeal was filed beyond the time limit without looking into the merits of the case. Therefore, the instant order passed by the Ld. CIT(A) may be set aside to the file of AO. Since intimation is issued to the assessee after processing the return of income, the assessee's claims that due to the circumstances, it was unable to present its case properly when the intimation order was passed. In the meantime, the assessee filed an application before the appropriate authority for registration u/s 12AA of the Act which has allowed by the competent authority on 17.05.2024 from assessment year 2022-23 to 2026-27. Therefore, it is necessary to remand back to the whole issue to the file of Ld. AO with a direction to reconsider the claim of assessee in terms of order of registration passed u/s 12AA of the Act passed by the Principal Commissioner of Income Tax as in the case of the assessee.

4. On the other hand, the Ld. DR did not object to such prayer made by the assessee.

5. We after hearing the rival submission of the parties and perusing the material available on record, we find that the intimation order passed u/s 143(1) of the Act at that time the assessee could not supply necessary documents in order to substantiate its claim as there was no compliance asked from the ends of the assessee by CPC and in intervening time, assessee getting the order for registration u/s 12AA of the Act from the competent authority. Therefore, it is necessary to remand back the whole issue to the file of AO with a direction to re-examine the issue afresh after affording a reasonable opportunity of being heard to the assessee. Assessee is also directed to furnish supporting documents in order to substantiate its claim. In terms of the above, appeal of the assessee is allowed for statistical purposes.

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

Kolkata, the 11th September, 2024.

Sd/-
[Rakesh Mishra]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 11.09.2024.
AK, PS

Copy of the order forwarded to:

- 1 Maa Saraswati Research and Development Trust,
2. ITO, Ward-43(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches