



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK 'SMC' BENCH, CUTTACK**

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.357/CTK/2024
Assessment Year :2016-17

Capital Law College, Plot No.A/63, Nayapalli, CRP Square, Bhubaneswar.	Vs.	ITO, Exemption Ward, Bhubaneswar
PAN/GIR No.AABTC1694 F		
(Appellant)	..	(Respondent)

Assessee by : Shri Rajat Kumar Kar, Adv
Revenue by : Shri S.C.Mohanty, Sr DR

Date of Hearing : 26/9/2024
Date of Pronouncement : 26/9/2024

ORDER

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 21.5.2024 in Appeal No.CIT(A), Bhubanswar-3/10118/2018-19 for the assessment year 2016-17.

2. Shri Rajat Kumar Kar, Id AR appeared for the assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. The appeal is time barred by 41 days. The assessee has filed condonation petition dated 30.8.2024 supported by affidavit stating the reasons that the first appellate order dated 21.5.2024 was served in the

email id of the previous auditor. As there was change in the auditor by the College, the previous auditor did not inform the passing of first appellate order. It was in this backdrop that the assessee was unaware of the order of the first appellate order. When this fact came to the knowledge of the assessee, the appeal was prepared and filed with a delay of 41 days. It was requested to condone the delay and admit the appeal for adjudication. Ld Sr DR did not objection to the request of Id AR of the assessee.

4. It was submitted by Id AR that the assessee is a charitable trust solely existing for education since its inception on 12.5.1982 and claimed exemption of its income under section 10(23C)(iiiad) of the Act. It was the submission that the Id CIT(A) has dismissed the appeal of the assessee for non-representation by the assessee before him. It was the submission that as the aggregate annual receipts of the assessee during the assessment year under consideration being Rs.99,90,089/-, which is below Rs.1 crore, the assessee is eligible for exemption under section 10(23C)(iiiad) of the Act, and, therefore, the addition of Rs.32,42,320/- made by the AO is not sustainable in law. It was submitted that since the assessee is running educational institution and the income generated by the institution is not for the purpose of profit, the issue be restored to the file of the Id CIT(A) as the assessee could not substantiate its case by filing necessary documentary evidence.

5. In reply, Id Sr DR supported the orders of the AO and Id CIT(A).

6. I have considered the rival submissions. It is not disputed that the annual receipts of the assessee is below Rs.1 crores and is eligible for exemption u/s.10(23C)(iiiad) of the Act. A perusal of the order of the Id CIT(A) shows that the assessee has been provided multiple opportunities to represent its case before him but there was no compliance by the assessee. Therefore, due to non-representation, the Id CIT(A) was compelled to pass the exparte order and confirmed the addition made by the Assessing Officer. Now before the Tribunal, it was the request of Id AR that if an opportunity is granted, the assessee would be in a position to comply with the notices of the Id CIT(A) and substantiate its case with documentary evidence. In view of above and in the interest of justice, the issues in this appeal are restored to the file of the Id CIT(A) for adjudication afresh assessee after providing adequate opportunity to the assessee subject to cost of Rs.5,000/- (Rupees five thousand only) to be deposited within 60 days from the date of this order under the head "others" in ITNS challan 280 in the Account No.500 and same is to be filed before the Id CIT(A). In the event the cost is not paid, the order passed by the Id CIT(A) would stand confirmed.

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

Order dictated and pronounced in the open court on 26/9/2024.

Sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 26/9/2024

B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Capital Law College, Plot No.A/63, Nayapalli, CRP Square, Bhubaneswar
2. The Respondent: ITO, Exemption Ward, Bhubaneswar
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Bhubaneswar
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.Secretary,
ITAT, Cuttack