

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H" DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.1742 & 1743/Del/2024
Assessment Year 2015-16 & 2014-15

The Vaish Aggarwal Educational Society CD Block, Pitam pura New Delhi	Vs.	Jt. Commissioner of Income Tax (Exemption) Range-2 New Delhi
TAN/PAN: AAATT0508N		
(Appellant)		(Respondent)

Applicant by:	Shri Parth Singhal, Advocate		
Respondent by:	Shri Ramesh Chand, Sr.DR		
Date of hearing:	28	08	2024
Date of pronouncement:	28	08	2024

ORDER

PER SUDHIR KUMAR - J.M.:

The captioned appeal has been filed by the assessee against the orders of the Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ['CIT(A)' in short] both dated 25.03.2024 and 01.04.2024 arising from the assessment orders dated 20.12.2016 and 28.11.2017 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning A.Ys. 2014-15 and 2015-16.

2. As per the grounds of appeal, the assessee has challenged the denial of exemption claimed under Section 11 of the Act amounting to Rs.67,58,194/-.

3. When the matter was called for hearing, the ld. counsel for the assessee, Mr. Parth Singhal referred to the paper book filed before the Tribunal and submitted at the outset that in response to notices issued by the CIT(A), the assessee has filed certain replies to support the eligibility of exemption under

Section 11 of the Act. The ld. counsel adverted to the screen shots showing proof of uploading the submission on multiple occasions. However, the CIT(A) has concluded the issue against the assessee without taking such submission into account at all. The ld. counsel thus submitted that the matter may be set aside to the file of the CIT(A) for fresh determination in accordance with law after giving proper opportunity to the assessee. Similar arguments were placed in respect of another appeal concerning A.Y. 2015-16.

4. We have carefully considered the rival submissions made on behalf of the assessee and perused the first appellate order.

5. We straightaway find merit in the plea of the assessee for two reasons;

(i) The submissions filed electronically before the CIT(A) carries no reference in the first appellate order and thus a presumption would arise that such submissions have not been taken into account at all.

(ii) The order of the CIT(A) suffers from the apparent mistake inasmuch as no perceptible reasons has been given by the CIT(A) while passing the issue against the assessee.

6. The CIT(A) has merely adopted the reasons for denial of exemption under Section 11 by the AO. No independent application of mind to the facts is discernible from the first appellate order. Thus, the first appellate order cannot be countenanced in law for both these reasons. Hence, the first appellate order is set aside in both the captioned appeals and restored back to the jurisdiction of the CIT(A) for fresh determination of issues raised before the CIT(A) in accordance with law.

7. Needless to say, proper opportunity shall be given to the assessee while determining the grievances raised by way of grounds of appeal. It shall be open to the assessee to adduce such evidence as may

be considered expedient before the CIT(A). The CIT(A) shall pass speaking order while determining the issue.

8. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order dictated and pronounced in the open Court on 28th August, 2024.

Sd/-
[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER

Sd/-
[SUDHIR KUMAR]
JUDICIAL MEMBER

DATED: 28th August, 2024

Prabhat

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

Assistant Registrar