

आयकर अपीलीय अधिकरण
पटना पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH AT KOLKATA**
[वर्चुअल कोर्ट]
[Virtual Court]

श्री राजेश कुमार, लेखा सदस्य
एवं
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य
के समक्ष
Before

**SRI RAJESH KUMAR, ACCOUNTANT MEMBER
&
PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**I.T.A. No.: 257/PAT/2023
Assessment Year: 2020-21**

Jeevan Deep Charitable Trust.....Appellant
[PAN: AAATJ 8547 K]

Vs.

ITO (Exemption), Ward-Muzaffarpur.....Respondent

Appearances:

Assessee represented by: Sanjeev Kr. Anwar, Adv.

Department represented by: Rinku Singh, CIT DR.

Date of concluding the hearing : July 31st, 2024

Date of pronouncing the order : September 25th, 2024

ORDER

Per Pradip Kumar Choubey, Judicial Member:

The instant appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2020-21 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by Id. Commissioner of Income-tax (Appeal)-NFAC, Delhi [in short Id. 'CIT(A)'] dated 07.07.2023 arising out of the assessment order framed u/s 143(3) of the Act dated 13.07.2018.

1.1. The brief facts of the case of the appellant are that the assessee is a charitable Trust registered u/s 12A of the Act. Income tax return was filed within the due date of filing return along with audit report in Form-10B. The return was processed and demand of Rs. 16,16,830/- was raised by not allowing the application of income in Revenue account amounting to Rs. 41,27,921/-. An intimation u/s 143(1) of the Act has been sent to the assessee in which it has simply been mentioned that no form has been filed. The said order of the Assessing Officer (hereinafter referred to as ld. 'AO') has been challenged by the assessee before the ld. CIT(A) that ld. CIT(A) has dismissed the appeal of the assessee thereby giving a finding that assessee can file rectification return by providing registration details u/s 12A of the Act in part A general to claim the exemption u/s 11 of the Act.

Being aggrieved and dissatisfied with the impugned order, the present appeal has been preferred.

2. Ld. Counsel for the assessee challenges the impugned order thereby submitting that the appellant is a charitable Trust engaged in running medical services and he filed income tax return along with audit report in Form-10B. In the course of argument, ld. A/R submitted that there was a mistake in filing the income tax return that resulted to disallowing his application. Accordingly, to him the Trust is a registered Trust and since there is a mistake in the ITR form regarding the registration column, CPC did not make any adjustment on this ground that as per the details furnished in the return, assessee is not registered u/s 12A/12AA of the Act. Ld. Counsel for the assessee has filed the copy of registration certificate before us and he has also filed the copy of Form-10B, copy of acknowledgement of filing of Form-10B, copy of acknowledgement of ITR dated 09.11.2020 before the ld. CIT(A). On going over the order of ld. CIT(A), it appears to us that in para 14, ld. CIT(A) has held thus:

“14.0 I have verified the return of income, it is a undisputed fact that the assessee trust failed to fill up the required details at Page No.1 of the ITR-7. The information required to be filled up there are

- *Details of registration or approval under Income Tax Act*

(Provided 10 columns in a table given the under the above caption to fill up so as to know whether the assessee trust is registered or not for the purposes of treating the assessee as a charitable trust or otherwise.)

Filling up the above said details are mandatory to allow the exemption claimed u/s 11 of the Act in the return of income. When the order u/s 143(1) was received, the assessee was verified all other conditions to claim exemption u/s 11 of the Act but failed to notice the basic information to reflect the assessee as a registered charitable trust is not filled up in the return. In the written submissions filed during the appeal proceedings, the appellant claims that it is a registered charitable trust u/s 12A of the Act. It is important to note that the present appeal is filed against the order passed u/s 154 of the Act. The adjudication of CIT(A) in this appeal shall confine to the record available only to the extent of documents submitted by the assessee electronically till the date of passing the order u/s 143(1). As seen from the record i.e., return of income, the assessee did not provide the information to prove that it is a registered charitable trust from the competent authority as per the Income Tax Act, 1961. Therefore, I do not find any error in the order passed by the CPC u/s 143(1) as no mistake apparent from the record is exists. However, the CPC communicated the way forward to allow the exemption in its communication which was already stated as part of the reasons communicated for the adjustment by the CPC. At the cost of repletion, the suggestion made by the CPC is reproduced below for the benefit of the appellant to follow the course of action suggested to get the exemption.”

2.1. It is also important to mention here that after discussing the entire facts, ld. CIT(A) has given a way forward to the assessee that assessee can file rectification return by providing registration details u/s 12A of the Act in part A general to claim the exemption u/s 11 of the Act. Since this is a case of technical defect and ld. CIT(A) has already given an opportunity to the assessee to file rectification return by providing entire papers, we are in this view that the assessee shall file a rectification before the ld. AO stating all the facts and registration documents and ld. AO shall pass an order after going over the entire papers. We are not inclined to pass any adverse order to the ld. CIT(A) as ld. CIT(A) has also given an opportunity to the assessee to file rectification return. With this observation, the present appeal is hereby disposed off by allowing the appeal of the assessee thereby sending the record to the ld. AO for fresh consideration after going over the documents filed by the assessee.

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

Order pronounced in the open Court on 25th September, 2024.

Sd/-

[Rajesh Kumar]

Accountant Member

Dated: 25.09.2024

Bidhan (P.S.)

Copy of the order forwarded to:

1. **Jeevan Deep Charitable Trust, Jeevan Deep Hospital, Bela, Jaynagar, Madhubani, Bihar, 847226.**
2. **ITO (Exemption), Ward-Muzaffarpur.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Bench, Patna.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata