

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'A', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Rakesh Mishra, Accountant Member

I.T.A. No.11/Kol/2024
Assessment Year: 2018-19

Haringhata MahavidyalayAppellant
Subarnapur, Haringhata, Nadia,
West Bengal-741249.
(PAN:AAALH0658M)

vs.

ITO, Ward-43(1), Nadia Respondent

Appearances by:

Shri Siddharth Agarwal, Advocate appeared on behalf of the appellant.

Shri Raja Sengupta, Addl. CIT, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing :July 03, 2024

Date of pronouncing the order :October 01, 2024

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा/ Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 30.10.2023 of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as the "Ld. CIT(A)" passed u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act").

2. The first issue involved in this appeal is as to whether the exemption u/s. 10(23C)(iiiab) of the Act can be denied to the assessee trust for late filing of the income tax return i.e. beyond time specified u/s. 139(1) of the Act and secondly, if the return is required to be mandatorily filed then whether, the filing of the return u/s. 139(4D) instead of section 139(4C) of the Act disentitles the assessee from claiming the exemption u/s. 10(23C)(iiiab) of the Act.

3. The Ld. Counsel for the assessee has contended that there is no provision under the Income Tax Act vide which the exemption u/s. 10(23C)(iiiab) of the Act can be denied to an assessee for non-filing or late filing of the income tax return as required u/s. 139 of the Act and within the period specified u/s. 139(1) of the Act.

4. The Ld. DR could not point out any relevant provision or section under the Income Tax Act which disentitles the assessee from claiming exemption u/s. 10(23C)(iiiab) of the Act for non-filing/late filing of the income tax return. Therefore, the action of the lower authorities in denying the exemption to the assessee on this ground is not sustainable.

5. The second issue as to whether the filing of the return in wrong form i.e. Form u/s. 139(4D) instead of Form u/s. 139(4C) becomes irrelevant.

In view of the above stated legal position the action of the lower authorities in denying exemption to the assessee cannot be held to be justified. The impugned order of the Ld. CIT(A) is set aside and the Ld. AO is directed to grant exemption to the assessee as claimed u/s. 10(23C)(iiiab) of the Act.

6. In the result, the appeal of the assessee stands allowed.

Order is pronounced in the open court on 01.10.2024

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sanjay Garg]

न्यायिक सदस्य/Judicial Member

Dated: 01.10.2024.

JD

Copy of the order forwarded to:

- 1.Haringhata Mahavidyalaya**
- 2. ITO, Ward-43(1), Nadia**
3. CIT(A), NFAC, Delhi
4. Pr. CIT,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches