

**IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI**

**BEFORE SHRI ANIKESH BANERJEE, JM &
MS PADMAVATHY S, AM,**

**I.T.A. No.4161/Mum/2024
(Assessment Year: 2019-20)**

ITO-41(1)(5), Room No. 830D, Kautilya Bhavan, Mumbai-400051.	Vs.	Vidya Nidhi Education Trust, Sharda Premises, Laxmi Naryan Temple Road, Mohili Village, Maharashtra-400072. PAN : AABTV0359E
Appellant)	:	Respondent)

Revenue/ Appellant by : Shri Vivek Perampurna, CIT-DR
Respondent /Assessee by : Shri Rajesh Athavle, AR
Date of Hearing : 25.09.2024
Date of Pronouncement : 27.09.2024

ORDER

Per Padmavathy S, AM:

This appeal by the Revenue is against the order of Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [in short 'the CIT(A)'] dated 12.06.2024 for Assessment Year (AY) 2019-20. The Revenue has raised the following grounds of appeal:

“1. "Whether on facts of the case in law the Ld.CIT(A) was correct in unilaterally treating the assessee as an AOP and directing the AO to allow the expenses incurred by the assessee without examining the genuineness of the expenses.

2. *"The appellant prays that the order of Ld. CIT(A) on the above grounds be set aside and that the order of assessing officer be restore*

3. *"Whether on the facts and circumstances of the case the Ld. CIT(A) has erred in not appreciating the fact that the Human Probability Test applied in this case and false claims of the assessee cannot sustain before the test of Human Probability."*

4. *The appellant craves leave to add, amend, alter substitute or modify any of the above grounds or add a fresh ground as and when found necessary either before or at the time of hearing."*

2. The assessee is a Trust running school in the name of Vidya Nidhi Education Trust and filed the return of income for AY 2019-20 on 09.12.2019 declaring an income of Rs.42,230/-. The Assessing Officer (AO) on perusal of documents noticed that the assessee has stated that it is registered under section 12A / 12AA of the Income Tax Act, 1961 (the Act) vide Registration No. E-11688 dated 24.05.1988 and have also filed Form-10B claiming exemption under section 12A / 12AA of the Act. The AO called on the assessee to furnish the copy of the registration of the Trust. Since the assessee did not submit the copy of registration of the Trust, the AO made an addition of the Gross Receipt of the Trust to be taxed at maximum marginal rate. The CIT(A) gave partial relief to the assessee by directing the AO to make addition on net income basis. The revenue is in appeal against the order of the CIT(A).

3. We heard the parties and perused the material on record. The Id. AR submitted that the assessee has inadvertently stated that it is registered under section 12AA and could not produce the registration certificate before the AO. The Id. AR brought to our attention that the AO while passing an order giving effect to the direction to the CIT(A) has assessed the income of the assessee on net basis (page no. 67 of PB). The Id. AR also brought to our attention for the AY 2018-19,

the AO has passed the rectification order under section 154 of the Act rectifying income to be taxed at net basis against the intimation under section 143(1) where income was assessed on gross basis. The ld. DR did not bring anything on record in support of the claim that the income should not be assessed on net basis. Considering the fact that the AO in the order giving effect has allowed the claim of expenditure by the assessee, we are unable to accept the plea of the ld. DR that the issue to be remitted back to the AO for verification of expenses. In view of this discussion and considering the peculiar facts of the case, we see no infirmity in the direction given by the CIT(A) to assess the income on net basis. Accordingly, the grounds raised by the Revenue in this regard are dismissed.

4. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 27-09-2024.

Sd/-
(ANIKESH BANERJEE)
Judicial Member

**SK, Sr. PS*

Sd/-
(PADMAVATHY S)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai