

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD
BEFORE DR. BRR KUMAR ACCOUNTANT MEMBER**

**ITA No.1398/Ahd/2024
Asstt.Year : 2019-20**

Shiksha Foundation C/o. Divyang Shah & Co. Chartered Accountants 201, Devashish complex Nr.Regenta Central Antarim Hotel Off CG Road Ahmedabad 380 009. PAN : AALTS 6277 Q	Vs	ITO, Ward-2 (Exemption), Ahmedabad.
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----	-------------------------------------------

(Applicant)	(Responent)
Assessee by :	Shri Divyang Shah & Co.
Revenue by :	Shri Ravindra, Sr.DR

सुनवाई की तारीख / **Date of Hearing** : 07/10/2024
घोषणा की तारीख / **Date of Pronouncement**: 07/10/2024

आदेश/ORDER

This is assessee's appeal against the order of the Id.Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi dated 24.06.2024 for the Asst.Year 2019-20 passed under section 250 of the Income Tax Act, 1961 ("the Act" for short).

2. The grounds raised by the assessee in the appeal are as under:
1. *Whether on facts and in circumstances of the case and in law, Ld. CIT(A) has erred in not allowing exemption of Rs.28,68,546/- u/s.11 of the act?*
 2. *Whether, on facts and in circumstances of the case and in law, Ld. CIT(A) has erred in confirming adjustment of Rs.28,68,546/- u/s.143(1) of the act?*
 3. *Whether, on facts and in circumstances of the case and in law, Ld. AO erred in raising demand of Rs.874,780/- while processing return u/s.143(1) of the act?*

3. The pertinent fact relating to the grounds are as under:

Date	Particulars	Attachment	Refer Annx	Refer Note
29/10/2019	Income-tax return of appellant for AY 2019-20 is filed on the Income-tax portal	ITR - V along with ITR Form	<u>Annx A</u>	-
20/01/2020	Audit report of appellant for AY 2019-20 filed on the Income-tax portal by auditor of appellant (i.e. CA Sajid M. Boghra)	Audit report (i.e. Form 10B)	<u>Annx B</u>	-
		Acknowledgement of Receipt of Form 10B	<u>Annx C</u>	
11/02/2021	Notice u/s 143(1)(a) is issued by CPC, Bengaluru	Screenshot from IT portal	<u>Annx D</u>	N1
23/03/2021	Intimation order u/s 143(1) is issued by CPC, Bengaluru	Intimation u/s 143(1)	<u>Annx E</u>	N1, N2

4. The Centralized Processing Center (CPC) disallowed the exemption claimed by the assessee under section 11 of the Act owing to late filing of audit report in Form No.10B. The assessee filed audit report on 20.1.2020 even before the issuance of initiation by CPC on 23.3.201. The similar issue has come up for adjudication in the case of the assessee for Asst.Year 2018-19 in ITA No.441/Ahd/2020. The relevant portion of the said order is as under:

“7. We have heard the rival contentions and perused the material on record. In this case, on going through the facts of the case, what transpires from the records is that the audit report for assessment year 2018-19 was duly signed by the auditor on 21-09-2018, though the same was omitted to be filed on the income tax portal. The due date of filing of income tax return for assessment year 2018-19 was 26-09-2018. Notice under section 143 (1) (a) was issued on 19-12-2019. The audit report of the assessee trust was filed on the income tax portal by the auditors of the assessee trust on 20-01-2020. Intimation under section 143 (1) denying the claim of the application of income was issued by CPC, Bengaluru on 08-02-2020. Therefore, what can be seen is that as on the date on which the intimation/order under section 143(1) of the Act was passed by CPC, Bengaluru, the auditor of the assessee trust had already filed the audit report in form 10B, before such order/intimation under section 143 (1) of the Act was issued. From the facts placed on record

3

before us, we see no deliberate/mala fide intention on the part of the assessee or it's auditor to file the audit report in form 10 B belatedly.”

5. In the absence of any change in factual contents, and the legal proposition, the appeal of the assessee is hereby allowed.

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

Dictated on the Open Court, typed and pronounced on 7th October, 2024.

Copy of this order be given to the assessee. The Registry is directed to dispatch as per procedure.

Sd/-

**(DR. BRR KUMAR)
ACCOUNTANT MEMBER**

Ahmedabad, dated 07/10/2024