



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.363/CTK/2024
Assessment Year : 2014-15

Integrated Development Society, Plot No.175/2720, Padmabati Vihgar, Chandrasekharapur, Sailashree Vihar, Bhubaneswar	Vs.	Deputy Director of Income Tax , CPC, Bengaluru
PAN/GIR No.AAATI 1569 C		
(Appellant)	..	(Respondent)

Assessee by : Shri Chitrasen Parida, Adv
Revenue by : Shri S.C.Mohanty, Sr DR

Date of Hearing : 17/10/2024
Date of Pronouncement : 17/10/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id JCIT(A)-2, Mumbai dated 30.7.2024 in Appeal No.CIT(A), Bhubaneswar-3/10180/2018-19 for the assessment year 2014-15.

2. Shri Chitrasen Parida, Id AR appeared for the assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is a society, which is doing the activities of general public utility of assisting in child adoption and providing education to under privileged children and orphan children. It was the submission that the assessee receives grant-in-aid from the Government for its activities. It was the submission that for the assessment year under appeal, the assessee had filed its return of income on 1.12.2014 but did not attach the audit reports in Form 10B though the same was obtained on 28.4.2014. It was the submission that the audit report was subsequently filed on 25.6.2018 when the appeal was pending before the Id JCIT(A). It was the submission that the intimation came to be issued in respect of the return of income filed by the assessee denying the assessee the benefit of expenditure claimed in its entirety on the ground that the audit report had not been filed along with the return of income. It was the submission that the Id JCIT(A) had dismissed the appeal of the assessee holding that the filing of the audit report was a statutory requirement and non-filing of the same would disentitle the assessee to the benefit of section 11 & 12 of the Act. Consequently, Id CIT(A) upheld the intimation. It was the submission that non-filing of audit report alongwith return of income might admittedly lead to denial of exemption u/s.11 & 12 of the Act but under no circumstances can lead to disallowance of 100% of the expenditures that too in an intimation u/s.143(1) of the Act. It was the

submission that the intimation disallowing the entire expenditure is liable to be set aside as it was not a mistake apparent from record.

4. In reply, Id Sr DR vehemently supported the intimation issued u/s.143(1) of the Act and the order of Id CIT(A).

5. We have considered the rival submissions. A perusal of the facts of the present case clearly shows that the assessee has filed its return of income claiming exemption u/s.11 & 12 of the Act. Admittedly, the audit report has not been filed within the due date. However, non-filing of the audit report within the due date cannot lead to entire disallowance of the expenditures claimed in the income and expenditure account. This is not a mistake apparent from record. The best action that could have been made u/s.143(1) was bringing to tax the surplus of income over expenditure. However, this has not been done in the intimation issued. This being so, as the intimation is found to be erroneous and is not making adjustment, which are permissible under the provisions of section 143(1), the intimation as issued for the impugned assessment year in the case of the assessee stands set aside.

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

Order dictated and pronounced in the open court on 17/10/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 17/10/2024

B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Integrated Development Society, Plot No.175/2720, Padmabati Vihgar, Chandrasekharpur, Sailashree Vihar, Bhubaneswar
2. The Respondent: Deputy Director of Income Tax , CPC, Bengaluru
3. The Ld JCIT(A)-2, Mumbai
4. Pr.CIT, Bhubaneswar
5. DR, ITAT,
6. Guard file.

//True Copy//

By order

Sr.Pvt.Secretary
ITAT, CUTTACK

