



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

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

ITA Nos.331 & 332 /CTK/2024
Assessment Years : 2015-16 & 2020-2021

Sri Sathya Sai Vidya Vihar, Apartibindha, Bhadrak	Vs.	Asst. Director of Income Tax, CPC, Post Bag No. Electronic City Post Office, Bengaluru
PAN/GIR No.AANTS 3747 B		
(Appellant)	..	(Respondent)

Assessee by : Shri S.K.Sarang, CA
Revenue by : Shri S.C.Mohanty, Sr DR

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

ORDER

Per Bench

These are appeals filed by the assessee against the separate orders of the Id JCIT(A)-2, Gurugram under NFAC, dated 23.3.2024 in Appeal No.NFAC/2014-15/10236259 for the assessment year 2015-16 and in Appeal No.NFAC/2019-20/10236261 for the assessment year 2020-2021.

2. Shri S.K.Sarang, 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 for the assessment year 2015-16, the assessee had filed its return of income on 15.9.2015 alongwith audit report in Form No.10B. It was the submission that the intimation u/s.143(1) of the Act came to be issued on 15.9.2016, wherein, CPC has disallowed the claim made u/s.12A of the Act without giving any reasons. It was the submission that on appeal, Id JCIT ((A)-2, Gurugram under NFAC has dismissed the appeal of the assessee, wherein in para 4 of his order, the Id JCIT(A) has stated the facts totally unrelated to the assessee. It was the submission that the return has been filed within the due date, audit report u/s.10B within the due date and no error in the return filed has been pointed out and consequently, the intimation issued u/s.143(1) was erroneous and same is liable to be quashed.

4. It was submitted that for the assessment year 2020-2021, the return had been filed on 19.11.2020, whereas the extended due date was 15.2.2021 and Form 10B had also been filed on 28.10.2020. It was the submission that the assessee was also registered u/s.12A from the assessment year 2012-13. However, when issuing intimation u/s.143(1), the exemption claimed has been denied without giving any reason. On appeal, Id JCIT(A) dismissed the appeal of the assessee on the ground that Form 10BB has not been filed and only Form 10B is filed. It was the submission that Form 10BB is to be filed from assessment year 2021-22 whereas the impugned assessment year is 2020-2021. It was the alternate

prayer that even otherwise the total receipts did not exceed Rs.1 crore and it is an admitted fact that the assessee is running an educational institution and in view of the provisions of section 10(23C)(iiid), the income of the assessee was exempt. It was the submission that the intimation issued denying the exemption claimed by the assessee is liable to be set aside.

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

6. We have considered the rival submissions. A perusal of the facts of the present case clearly shows that for the assessment year 2015-16, the assessee has filed the return of income and requisite Form 10B within the due date as prescribed under the Act at the relevant point of time. The intimation does not talk of why adjustment has been made. Ld JCIT(A) has also not given any finding in issues relating to the impugned assessee but has gone on the facts related to some other assessee and that too for the assessment year 2020-2021. This being so, we are of the view that the intimation issued for the assessment year 2015-16 in the case of the assessee is unsupported and same stands quashed.

7. For the assessment year 2020-2021, a perusal of the facts of the case clearly shows that the return has been filed alongwith requisite Form 10B as required for the impugned assessment year 2020-2021. The findings of Id JCIT(A) that Form 10BB that has not been filed is erroneous.

Further, it is also noticed that the total receipts of the assessee is below Rs.1 crore and the assessee admittedly is running an educational institution and thus entitled to the benefit of section 10(23C)(iiid) of the Act. This being so, the intimation issued u/s.143(1) for the assessment year 2020-2021 is found to be erroneous and same stands quashed.

8. In the result, both the appeals of the assessee stand 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: Sri Sathya Sai Vidya Vihar, Apartibindha, Bhadrak
2. The respondent: Asst. Director of Income Tax, CPC, Post Bag No. Electronic City Post Office, Bengaluru
3. The JCIT(A)- NFAC,-2, Gurugram
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.Secretary

ITAT, Cuttack