

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
PADMAVATHY S, ACCOUNTANT MEMBER**

ITA No.1501/Bang/2024
Assessment Year : 2021-22

ITO (Exemption), Ward – 3, Bangalore.	Vs.	Shri. Ramaiah Reddy Educational Trust, Cholanayakanahalli, R. T. Nagar, Bangalore – 560 032. PAN : AADTS 7637 N
APPELLANT		RESPONDENT

Assessee by	:	Shri. S. N. Shanbhog, Advocate
Revenue by	:	Ms. Neha Sahay, JCIT(DR)(ITAT), Bangalore.

Date of hearing	:	14.10.2024
Date of Pronouncement	:	14.10.2024

ORDER

Per George George K, Vice President:

This appeal at the instance of the assessee is directed against the Order of CIT(A) dated 14.06.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2021-22.

2. The grounds raised by the Revenue reads as follows:

1. *The Order of Ld.CIT(A) is opposed to facts and circumstances of the case;*
2. *The Ld. CIT(A) has erred in not appreciating the fact that the assessee had not filed form 10B within the stipulated time as per the provisions of sec.12A(1)(b) and hence not eligible for exemption u/ s.11 & 12 of the Income Tax Act for the relevant assessment year;*

3. *The Ld.CIT(A) has erred in allowing the appeal of assessee on an entirely different ground which was not the reason for disallowance of exemption under sections 11 & 12 claimed by the assessee;*
4. *The Ld.CIT(A) has erred in allowing the appeal of assessee on the ground that the assessee had an existing registration under section 12AA of the Act which continued to remain valid for the year under consideration while the reason for disallowance of the claim of exemption by the CPC was clearly stated in the order under section 154 as the assessee had not filed audit report in Form 10B at least one month prior to the clue date for furnishing Return under section 139(1) and hence the exemption claimed under section is not allowable in accordance with the provisions of section 12A(1)(b) of the Income Tax Act.*
5. *The Ld.CIT(A) has erred in not discussing the reason for disallowance as proposed and mentioned in the Intimation under section 143(1) Act as well as in the Order under section 154 of the Income Tax Act, 1961;*
6. *The appellant craves leave to add, alter or amend all or any of the Grounds of Appeal before or at the time of the hearing of the appeal.*
7. *The Order of the Ld.CIT(A), NFAC may be set-aside and the Order of the AO may be confirmed.*

3. Brief facts of the case are as follows:

Assessee is a Trust running educational institution. It is registered under section 12A of the Act. For the Assessment Year 2021-22, the return of income was filed on 11.02.2022 declaring total income of Rs.Nil after claiming exemption under section 11 of the Act. The return of income for Assessment Year 2021-22 was due on 15.03.2022 (extended due date). The return was processed under section 143(1) of the Act, on 12.08.2022. Subsequently, the AO passed a rectification order under section 154 of the Act on 13.02.2023. In the said rectification order, total income was determined at Rs.4,18,46,403/- by denying the claim of exemption claimed in the return of income. In the Order passed under section 154 of the Act, the claim of exemption under section 11 was denied for the reason that assessee did not file audit report in Form 10B within the due date prescribed and hence the exemption claimed is not allowable in accordance with

the provisions of section 12A(1)(b) of the Act. The relevant observation of the AO in passing the Order under section 154 of the Act reads as follows:

“The Trust or Institution registered u/s 12A/12AA/12AB has not E-filed the Audit Report in Form 10B atleast one month prior to the due date-for furnishing return u/s 139(1). Hence the exemption claimed in Sr.no. 2 [exemption claimed u/s 11(1)(d)] and Sr.no. 4i to4viii of Part B-TI is not allowable in accordance with the provisions of Section-12A(1)(b) of the income tax Act.”

4. Aggrieved by the Order passed under section 154 of the Act, assessee Trust filed an appeal before the First Appellate Authority (FAA). The CIT(A) allowed the appeal of the assessee. The CIT(A) held that assessee Trust has valid registration / approval under section 12AA of the Act which is in force during the year under consideration and allowed appeal of the assessee.

5. Aggrieved by the Order of the CIT(A), the Revenue has filed the present appeal before the Tribunal. The learned AR submitted that CIT(A) has erred in not discussing the reasons for disallowance of exemption in the Order passed under section 154 of the Act. It was submitted by the learned DR that the reason for denying the benefit of exemption under section 11 of the Act, was that assessee did not file audit report in Form No.10B within the due date prescribed. Therefore, it was submitted that the Order of the CIT(A) is erroneous and requires to be quashed.

6. The learned AR on the other hand submitted that assessee has filed a delay condonation application before the PCIT(E) for condoning the delay in filing the audit report in Form No.10B and the same is pending consideration before the PCIT(E). The learned AR submitted that the matter may be restored to the CIT(A) to await the outcome of the decision that is to be rendered by the PCIT(E), and take a decision in accordance with law.

7. We have heard the rival submissions and perused the material on record. The appeal before the CIT(A) arises out of the Order passed under section 154 of the Act, dated 13.02.2023. The reason for denial of exemption under section 11 of the Act was that audit report in Form No.10B has been filed belatedly. The CIT(A) has allowed the appeal of the assessee for a totally different reason that registration / approval under section 12AA of the Act in the case of the assessee Trust continues to remain valid for the year under consideration. This reasoning of the CIT(A) is erroneous. The assessee has filed a delay condonation application before the PCIT(E) to condone the delay in filing the audit report in Form 10B and it is stated that the same is pending consideration. In light of the submissions made by the learned AR, we restore the matter to the CIT(A) to await the outcome of the delay condonation application which is pending consideration before the PCIT(E) and take a decision on receipt of the same in accordance with law. It is ordered accordingly.

8. In the result, appeal filed by the Revenue is allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(PADMAVATHY S)
Accountant Member

Sd/-

(GEORGE GEORGE K)
Vice President

Bangalore.

Dated: 14.10.2024.

/NS/*

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| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR, ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.