

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT  
AND  
SHRI S.S. GODARA, JUDICIAL MEMBER

ITA Nos.814 & 815/PUN/2024

निर्धारण वर्ष / Assessment Years : 2014-15 & 2015-16

M/s. Mahalaxmi Mahila Vikas Sanstha Hingoli At Post Hingoli, Hingoli – 431001 PAN: AACTM8683M	Vs.	CPC, Faceless Processing Centre, Bengaluru
Appellant		Respondent

Assessee by Shri Charuhas D. Upasani  
Revenue by Shri Ramnath P Murkunde

Date of hearing 15.10.2024

Date of pronouncement 21.10.2024

आदेश / ORDER

PER S.S. GODARA, JM :

These assessee's twin appeals, ITA Nos.814 & 815/PUN/2024, for AYrs 2014-15 and 2015-16, arise against the Addl/JCIT(A)-4, Bengaluru's separate orders dated 29.02.2024 passed in case Din & Order Nos. ITBA/APL/S/250/2023-24/1061775472(1) and ITBA /APL/S/250 /2023-24/1061753970(1), respectively in proceedings under section 250 of the Income Tax Act, 1961, in short 'the Act'.

Heard both the parties. Case files perused.

2. A combined perusal of the assessee's instant twin appeals reveals that both the learned lower authorities has rejected its claim of section 11 exemption for the sole reason that it had not filed its Form No.10B audit report within the prescribed time, i.e. due date of filing section 139(1) return and therefore, it has been held as not entitled for the said relief.

3. Learned departmental representative refers to the NFAC's identical findings in para Nos. 3 to .3.2 in both these appeals to this clinching aspect reading as under :

*“3. The submissions of the assessee were examined. It is a fact that the assessee has not filed the audit report within the time limit specified. Further, it is seen that in the return of income the assessee had admitted the entire receipts of Rs.61,64,510/- as income and had claimed the application (Rs.55,05,570/-) as expenses. The application constitutes 89% of the income received. The balance sum (Rs.6,58,940/-) the assessee had offered as taxable income. It was seen that the assessee had not claimed any exemption u/s 11, 12 of the Act. In the intimation u/s 143(1), the income assessed was Rs.61,64,510/-, that is the entire receipts.*

*3.1 It is seen that the assessee had obtained registration u/s 12AA of the Act vide order 24/11/2017 with effect from FY:2017-18, subsequent to the intimation u/s 143(1) of the Act. Further, the assessee has stated that, the delay in filing of audit report in Form 108 has been condoned by CIT(E) vide order in ITBA/COM/F/17/2020-21/1031636421 (1) dated 21/03/2021. The assessee had stated that its rectification petition subsequent to the condonation of delay has also been rejected by the assessing officer as the registration u/s 12AA of the Act was granted only from FY:2017-18.*

*3.2 It is seen that the assessee had not filed the tax audit report in time. The assessee has claimed that the return of income and expenses were claimed under normal provisions of Income Tax. The assessee had stated that the trust has not claimed any exemption u/s.11, 12 of the Act, hence denial of exemption u/s.11 and 12 does not arise. The claim of the Assessee is perused and the assessee has not furnished any supporting documents to substantiate their claim. Further, even if the return is filed under provisions other than exemption provisions, the assessee could not explain why the return of income is filed by using ITR 7. Further the Assessee has filed Audit report under Form 10B whereas a non- trust assessee need not file Audit report under Form 10B. The assessee could not file any explanation why the audit report was filed by using Form 10B. In the absence of supporting documents, the claim of the assessee is not be acceptable, therefore the claim of the assessee is rejected and the order u/s 143(1) is confirmed.”*

4. The assessee on the other hand submits that the prescribed authority herein, i.e., CIT(Exemption) has already condoned the foregoing delay vide his twin orders; both dated 21.03.2021 having Din & Order Nos.ITBA/COM/F/17/2020-21/1031636413(1) and ITBA/COM/F/17/2020-21/1031636421(1), respectively which are placed on record in the case files. This being the clinching factual position, we deem it proper in the interest of justice that given the learned CIT(Exemption)/prescribed authority has already accepted the assessee's mitigating circumstances, its instant twin appeals deserve to be restored back to the CIT(A) for his fresh appropriate adjudication as per law. We order accordingly subject to a rider that it shall be the assessee's responsibility to plead and prove all the relevant facts within

three effective opportunities on its own responsibilities in consequential proceedings. Ordered accordingly.

5. To sum up, these assessee's twin appeals ITA Nos.814 & 815/PUN/2024 are allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the Open Court on 21<sup>st</sup> October, 2024.

Sd/-  
**(R.K. PANDA)**  
**VICE PRESIDENT**

Sd/-  
**(S.S. GODARA)**  
**JUDICIAL MEMBER**

पुणे Pune; दिनांक Dated : 21<sup>st</sup> October, 2024  
*Satish*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The concerned Pr.CIT;
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "A" / DR 'A', ITAT, Pune
5. गार्ड फाईल / Guard file

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune