

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'बी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH: KOLKATA
श्री संजय गर्ग, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
[Before Shri Sanjay Garg, Judicial Member & Shri Rajesh Kumar, Accountant Member]

I.T.A. No. 660/Kol/2024
Assessment Year: 2017-18

Arambagh Education Society (PAN: AACAA 6162 C)	Vs.	ITO, Ward- 24(1), Hooghly
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	24.07.2024
Date of Pronouncement / आदेश उद्घोषणा की तिथि	23.10.2024
For the Appellant / निर्धारिती की ओर से	Shri S. M. Surana, A.R
For the Respondent / राजस्व की ओर से	Shri P. P. Barman, Addl. CIT Sr. D.R

ORDER/ आदेश

Per Shri Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as ' Ld. CIT(A)'] dated 30.11.2023 for the assessment year 2017-18.

2. At the outset, we note that there is a delay in filing the appeal by 63 days. We have heard the rival contentions of both the parties on the issue of delay in filing the appeal and find that the delay is for sufficient and bonafide reasons which has been

explained by the assessee in the condonation petition. Accordingly, we condone the delay and admit the appeal for adjudication.

3. The only issue raised by the assessee in the various grounds of appeal is against the order passed by the Ld. CIT(A) upholding the addition made by the AO of Rs. 71,75,882/- to the income of the assessee on account of unexplained money u/s 69A of the Act.

4. Facts in brief are that the assessee is a society registered under the Societies Registration Act, vide Memorandum of Association and certificate of registration granted on 14.05.1987. The assessee runs a school under the name and style of Shishu Guchha in the town of West Bengal. The income of the assessee was claimed as exempt u/s 10(23C)(iiiad) since the gross receipts were below Rs. 1 crore, nonetheless the assessee applied for PAN and the same was allotted too. The assessee used to collect its fees from the students in cash and used to deposit in the bank account as per the standard norms and procedures followed by the Institution. The assessee did not file any return of income within due time u/s 139 of the Act for the instant assessment year resulting into framing of assessment on 31.12.2019 u/s 144 of the Act determining the total income of Rs. 7,07,930/- by estimating the income @ 8% of the gross receipts. Thereafter the PCIT revised the assessment u/s 263 of the Act and restored it back to the file of the AO for de novo adjudication after verifying the source of cash deposits and decide the issue afresh accordingly. The AO in the original assessment proceedings has held that the assessee has not established that the assessee is running a school and estimated income @ 8% of gross receipt. The AO has given a finding in the assessment order that the bank account with Hooghly District Central Co-operative Bank was along with name of school Sishu Guchha which proved that the name of the school was appeared in the bank statement. However, the AO while making the addition gave a finding that the assessee could not file evidences to prove that it was running a school in the name of Sishu Guchha and therefore held that the cash transactions of the assessee in the bank account remained unexplained and hence estimated the income in the assessment framed u/s 144 of the Act as stated above.

5. In the appellate proceedings, the Ld. CIT(A) affirmed the order of AO by holding the conflicting and contradictory findings given by the AO.

6. After hearing the rival contentions and perusing the material on record, we find that the assessee though has not filed any return of income during the year u/s 139(1) of the Act nor in response to Section 148 of the Act. The assessment was framed u/s 147 of the Act as ex-parte by applying the rate of 8% on gross receipts deposited in the bank account of the assessee school. The said order was revised by the PCIT and restored back to the file of AO with the direction to examine the cash deposits in the bank account of the assessee. We note that the assessee is running a school in the name of Sishu Guchha which is duly mentioned in the bank account of the assessee maintained with Hooghly District Central Co-operative Bank and even the ITO mentioned the said fact in the assessment order and the said bank account duly figured and appeared in the balance sheet of the assessee trust. The assessee has also filed receipts issued for fee receipts from the students which showed that the assessee is running a school in the name of Sishu Guchha. We note that apart from this, the assessee has filed evidences of provident fund deducted from the teachers and the name of the teachers appeared also in bank statement which adequately proved that the school belonged to the assessee. We note that the cash deposits in the bank account is a regular phenomenon throughout the year and not only during demonetization period which is not disputed by the authorities below. Therefore, the addition made by the AO and confirmed by the Ld. CIT(A) that Sishu Guchha was not part of that society is without any basis and contrary to the facts on records. Considering these facts and circumstances, we are not in a position to sustain the appellate order passed by the Ld. CIT(A). Accordingly we set aside the order of Ld. CIT(A) and direct the AO to delete the addition as the assessee is entitled to claim deduction u/s 10(23C)(iiiad) of the Act as gross receipts are less than Rs. 1.00 crores.

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

Order is pronounced in the open court on 23rd October, 2024

Sd/-

(Sanjay Garg /संजय गर्ग)
Judicial Member /न्यायिक सदस्य

Sd/-

(Rajesh Kumar / राजेश कुमार)
Accountant Member / लेखा सदस्य

Dated: 23rd October, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Arambagh Education Society, Arambagh Jubilee Park, Arambagh, Hooghly-712601
2. Respondent – ITO, Ward-24(1), Hooghly
3. Ld. CIT(A)-NFAC, Delhi
4. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata