

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH : COCHIN**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

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| ITA No. 342/Coch/2023 |
| Assessment Year : 2014-15 |

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| M/s. Immaculate Heart of Mary Hospital, Marygiri, Bharananganam, Kottayam District, Kerala – 686 578. PAN: AAATI1159G | Vs. | The Assistant Commissioner of Income Tax, Exemption Circle, Thiruvananthapuram. |
| APPELLANT | | RESPONDENT |

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| Assessee by | : | Shri Prasanth Srinivas, CA |
| Revenue by | : | Smt. Girly Albert, Senior DR. |

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| Date of Hearing | : | 11-09-2024 |
| Date of Pronouncement | : | 20-09-2024 |

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the orders of the NFAC, Delhi dated 13/03/2023 in respect of the assessment year 2014-15.

2. The brief facts of the case are that the assessee is a charitable institution providing medical relief to the poor. They are also registered u/s. 12A of the Act and therefore they are eligible for exemption u/s. 11 of the Act. During the assessment year 2014-15, the assessee filed their return of income on 13/09/2014 declaring a total income of Nil after claiming the

exemption u/s. 11 of the Act and also claimed a refund of TDS amount of Rs.1,22,133/-. The assessee properly shown and claimed the TDS amount in the return of income. The AO made the assessment u/s. 143(3) of the Act by accepting the Nil income but while making the computation, the AO had taken the TDS as Nil and therefore he has not refunded the TDS amount.

3. As against the said order, the assessee filed an appeal before the Ld.CIT(A) and contended that the AO ought to have given credit for TDS amount and refunded the same which was duly shown by the assessee in their return and which was also reflected in form 26AS. The Ld.CIT(A) had dismissed the appeal for want of verification of the corresponding income for the TDS deducted by the insurance companies as well as Kerala Electricity Board. As against the said order of the Ld.CIT(A), the assessee is in appeal before this Tribunal with the following grounds:

“1. The order u/s 250 of the Act, in appeal, is wrong in law and on facts so far as it is prejudicial to the interests of the appellant.;

2. From the facts, it is clear that the AO and CIT (A) erred by not allowing credit for TDS and refund amounting Rs. 1,22,133/-, which the appellant is rightfully entitled to. The AO / CIT (A) should have granted credit for TDS and consequent refund of Rs.1,22,133/- along with interest.

3. For the above and other grounds, points and arguments, which may be presented before or at the time of hearing of the appeal, it is submitted that the appeal may be allowed.”

4. At the time of hearing, the Ld.AR submitted that the Ld.CIT(A) is not correct in dismissing the appeal for want of verification. The Ld.AR also filed the copies of the return of income filed on 13/09/2014 and the form 26AS statement and the statement of accounts for the period from 01/04/2013 to 31/03/2014 to show that the insurance amount were received and also to show that the necessary TDS was deducted by the insurance companies and prayed to allow the appeal.

5. The Ld.DR relied on the orders of the lower authorities and prayed to dismiss the appeal.

6. We have heard the arguments of both the sides and perused the records.

7. We have gone through the order of the AO and in the computation of tax, the AO had not taken into consideration the TDS amount deducted by the insurance companies and the Kerala Electricity Board and therefore there is no occasion to the AO to consider the claim for refund. In view of the mistake committed in the computation form, AO had not made any refund while passing the assessment order. The mistake committed by the AO was explained by the assessee before the Ld.CIT but the Ld CIT(A) without considering the documents properly had dismissed the appeal. We have perused the copies of the return of income in which in the computation of tax liability on total income at page 30 in column no. 13 the assessee had shown the TDS amount of Rs. 1,22,133/- and also in the Schedule TDS1 the details of tax deducted at source on the income disbursed by the Insurance Company and by the Kerala Electricity Board were properly shown by the assessee. Even in the Form no. 26AS statement also, these details were duly reflected. Further, the statement of accounts filed by the assessee also shows the various payments made by the insurance company and the TDS amount deducted by them but unfortunately, the AO as well as the Ld.CIT(A) had not considered the said documents but gave adverse finding and dismissed the appeal.

8. The Ld.CIT(A) had not properly considered the documents filed by the assessee in which all the details about the income by way of insurance claim was duly recorded in the books of accounts as well as shown separately in the form 26AS statement and also in the return of income filed by the assessee. But inspite of that, the Ld.CIT(A) gave a finding that he was not able to verify the corresponding income and therefore dismissed the appeal filed by the assessee. The above said finding of the Ld.CIT(A) is against the

various documents filed by the assessee and therefore we are inclined to interfere with the above finding of the Ld.CIT(A) and thereby allowing the appeal filed by the assessee.

9. In the result, the appeal filed by the assessee is allowed.
Order pronounced in the open court on 20th September, 2024.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 20th September, 2024.
/MS /

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Cochin |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Cochin