

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, KOLKATA

[Before Shri Rajpal Yadav, VP & Shri Rajesh Kumar, AM]

I.T.A. No. 1237/Kol/2023

Assessment Year: 2013-14

Future Education & Research Trust 10B, Middleton Row, West Bengal- 700071. (PAN: AAATF0951B)	Vs.	Deputy Commissioner of Income Tax, Circle-1(1), Exemption, Kolkata.
Appellant		Respondent

Date of conclusion of Hearing	23.10.2024
Date of Pronouncement	18.11.2024
For the Appellant	Shri Soumitra Choudhury, Advocate & Shri Pranabesh Sarkar, Advocate
For the Respondent	Shri Pradip Kumar Biswas, Addl. CIT, DR

ORDER

Per Shri Rajesh Kumar, AM

This appeal filed by the assessee is against the order of Ld. CIT(A), NFAC, Delhi dated 12.10.2023 for AY 2013-14 arising out of assessment order passed u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) by DCIT (exemption), circle-1, Kolkata dated 22.02.2016.

2. The only issue raised in various grounds of appeal is against the confirmation of addition of Rs.52,25,000/- by Ld. CIT(A) as made by the AO u/s. 69A read with section 115BBE of the Act

3. The facts in brief are that the assessee is a registered trust u/s. 12A as well as u/s. 10(23C)(vi) of the Act with the main object of the trust is imparting of education. During the year, the assessee filed return of income on 24.09.2013 declaring total income as nil. The case of the assessee was selected for scrutiny and statutory notices were duly issued and served on the assessee. During the course of assessment proceedings, the AO called for the details of students admitted through management quota. In response, Shri Silajit Ghosh,

Chairman of the Trust submitted a list showing extra fees charged for each stream and submitted that such fee was within the purview of order passed by Government of West Bengal, Department of Higher Education. However, the Ld. CIT(A) came to the conclusion that such higher fee of Rs.52,25,000/- was not reflected in the Income & Expenditure Account and, therefore, added the same u/s. 69A of the Act in the assessment framed u/s. 143(3) dated 22.02.2016 by ignoring the facts on record.

4. The appeal filed before the Ld. CIT(A) was also dismissed on the ground that assessee did not furnish any details/information to controvert the finding given by the AO which was framed the assessment as ex parte and dismissed.

5. After hearing the rival contentions and perusing the material on record, we find that the assessee being engaged in the activity of imparting higher education is approved u/s. 12A as well as u/s. 10(23C)(vi) of the Act. The AO during the assessment proceedings, observed that assessee has received extra fees for Rs.52,25,000/- which are not reflected in the books of account, and was accordingly added u/s. 69A of the Act being received out of the books of account. The Ld. CIT(A) dismissed the appeal without taking into consideration the submissions uploaded by the assessee on line, the details and copies whereof were furnished before the Bench during the course of hearing. We note that the assessee furnished details/informations before the Ld. CIT(A) on 21.03.2022, 24.08.2023 and 09.10.2023 qua the fee which was added by the AO. The assessee has also filed the details of the management quota fee which is available at page 93 of the paper book. Besides, the assessee has furnished the details of cash deposits amounting to Rs.52,74,800/- on various dates into the assessee's bank account along with amount, statement and copies whereof are available at pages 35 to 83 of the paper book to corroborate the fact that the money received by the assessee trust through banking channel. Considering these facts, we find that the order passed by Ld. CIT(A) is wrong and against the facts on record. Even the submissions of the assessee along with the evidences were not considered at all. Likewise the submission of the assessee escaped the attention of the AO also. We observe from the records that the fees of Rs.52,25,000/- were duly accounted for by the assessee.

Considering these facts, we are inclined to set aside the order of the Ld. CIT(A) and direct the AO to delete the addition of Rs.52,25,000/-.

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

Order is pronounced in the open court on 18th November, 2024

Sd/-
(Rajpal Yadav)
Vice President

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: 18th November, 2024

JD, Sr. PS

Copy of the order forwarded to:

1. Appellant– Future Education & Research Trust
2. Respondent – DCIT, Circle-1(1) (Exemption), Kolkata.
3. CIT(A), NFAC, Delhi
4. Pr. CIT
5. DR, ITAT, Kolkata,
True Copy

By Order

Assistant Registrar
ITAT, Kolkata Bench, Kolkata