

आयकर अपीलीय अधिकरण
कोलकाता 'ए' पीठ, कोलकाता में
IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'A' BENCH, KOLKATA

श्री राजपाल यादव, उपाध्यक्ष
एवं

श्री राजेश कुमार, लेखा सदस्य
के समक्ष

Before
SRI RAJPAL YADAV, VICE PRESIDENT
&
SRI RAJESH KUMAR, ACCOUNTANT MEMBER

I.T.A. No.: 1908/KOL/2024
Assessment Year: 2022-23

Institute for Steel Development and Growth.....Appellant
[PAN: AAAAI 0466 P]

Vs.

DDIT, CPC/Bengaluru.....Respondent

Appearances:

Assessee represented by: Mrs. Saswati Mitra (Dutta), Adv.

Department represented by: Pradip Kumar Biswas, Addl. CIT.

Date of concluding the hearing : October 22nd, 2024

Date of pronouncing the order : November 19th, 2024

ORDER

Per Rajpal Yadav, Vice-President:

The assessee is in appeal before the Tribunal against the order of the Commissioner of Income Tax (Appeals)-1, Gurugram [hereinafter referred to as Id. 'CIT(A)'] dated 15.07.2024 passed for AY 2022-23.

1.1. The assessee has taken 7 grounds of appeal but its grievances revolve around a single issue namely Id. CIT(A) has erred in upholding the determination of gross income at Rs. 5,73,24,801/-. This figure was determined by the Assessing Officer-NFAC (hereinafter referred to as Id. 'AO')

in an assessment u/s 143(1) of the Income Tax Act, 1961 (in short the 'Act') by CPC, Bangalore. The ld. AO did not grant benefit of Section 11 of the Act on the ground that report in Form-10B was not submitted by the assessee before the due date of filing of the income tax return which was a mandatory condition.

1.2. It is pertinent to note that assessee is a society established by the Govt. of India (Ministry of Steel) and the major steel companies are its members. It has filed its return of income. However, it failed to file the report in Form-10B before filing of the return. The CPC while processing this return has disallowed the exemption claimed u/s 11 of the Act by the assessee.

1.3. The assessee has filed an application u/s 119(2)(b) of the Act for condonation of delay in filing alleged audit report in Form-10B. Such application has been placed on the record. As per the ld. Counsel for the assessee this application is still pending.

2. With the assistance of ld. representatives, we have gone through the record carefully. A perusal of paragraph no. 4.1.6 of ld. CIT(A)'s order would indicate that ld. CIT(A) has also apprise the assessee to pursue its case with the jurisdictional Commissioner of Income Tax (Exemption). The observations in this paragraph read as under:

“4.1.6 The appellant has already filed its request for the condonation of the delay in filing Form 10B, it is requested to pursue the same with the jurisdictional Commissioner of Income Tax, (Exemption), for the condonation to claim the benefits of Sections 11 and 12 of the IT Act.”

3. When we confront the above observation of the ld. CIT(A), ld. D/R was unable to controvert it. On due consideration of the above aspect, we deem it appropriate to set aside both the orders and remit this issue to the file of ld. AO. Ld. AO shall ascertain the status of assessee's application for condonation of delay in filing the report in Form-10B and thereafter re-determine the income after providing due opportunity of hearing to the assessee.

4. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 19th November, 2024.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Rajpal Yadav]
Vice-President

Dated: 19.11.2024

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Institute for Steel Development and Growth, Ispat Pragati Bhawan, 793 Anandapur, Kolkata, West Bengal, 700107.**
- 2. DDIT, CPC/Bengaluru.**
3. CIT(A)-1, Gurugram.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata