



**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "SMC" BENCH: NEW DELHI**

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT &
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

**ITA No.3330/Del/2024
[Assessment Year : 2018-19]**

Sufi Kathak Foundation, J-237, Saket, New Delhi-110017. PAN-AADAS5230Q	vs	ITO, Ward Exemption 2(2), Delhi.
APPELLANT		RESPONDENT
Appellant by		Shri Durgesh Shankar, Adv.
Respondent by		Shri Om Parkash, Sr.DR
Date of Hearing		08.11.2024
Date of Pronouncement		21.11.2024

ORDER

PER PRADIP KUMAR KEDIA-AM :

The instant appeal has been filed at the instance of the assessee seeking to assail the First Appellate order dated 20.05.2024 passed by Ld. Commissioner of Income Tax (A)/ADDL/JCIT(A)-2, Pune ["Ld.CIT(A)"] u/s 250 of the Income Tax Act, 1961 ["the Act"] pertaining to Assessment Year 2018-19.

2. The grounds of appeal raised by the assessee read as under:-

1. *"That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts, in confirming the action of Ld. DCIT CPC in not allowing the benefit of exemption u/s 11&12 Of the Income Tax Act, more so when assessee has complied with all the necessary conditions in this regard and has further erred in denying the said exemption and that too by recording incorrect facts and findings and in violation of principles of natural justice.*
2. *That in any case and any in view of the matter, action of Ld. CIT(A) in confirming the action of Ld. DCIT CPC in not allowing the*



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exemption U/s 11&12 of the Income Tax Act, is bad in law and against the fact and circumstances of the case.

3. *That having regard to the facts and circumstances of the case, Ld. CIT(A) ought to have quashed the impugned intimation order passed by Ld. DCIT CPC u/s 143(1) as the subject issue is outside the purview of section 143 (1) of the Act.”*

3. As per grounds of appeal, the assessee has challenged the denial of exemption under section 11 & 12 of the Act owing to alleged delay in filing Audit Report in Form No.10B and also for belated filing of return of income beyond the due date prescribed under section 139(1) of the Act for the Assessment Year 218-19 in question.

4. The assessee filed return of income for AY 2018-19 on 29.10.2018 which is alleged to be beyond due date prescribed under section 139(1) of the Act. The Ld.CIT(A) has also alleged that the appellant society has also filed the Audit Report in Form No.10B for claiming exemption under section 11 pertaining to AY 2018-19 on 29.10.2018. The Ld.CIT(A) thus, upheld the action of Centralized Processing Center (“CPC”) in denying the benefit under section 11 & 12 of the Act on the ground that benefit can only be availed if the assessee has filed the return of income and also the Audit Report within due date as specified under section 139(1) of the Act. The Ld.CIT(A) observed that the due date for furnishing return of income and Audit Report was 30.09.2018. However, the assessee has filed these documents belatedly on 29.10.2018 and consequently, has forfeited benefits available under section 11 & 12 of the Act.

5. In this regard, it is the contention of the assessee that in exercise of power conferred under section 119 of the Act, the CBDT vide order dated 08.10.2018 had granted extension of due date for the purposes of filing of return of income as well as various reports of audits pertaining to AY 2018-19 upto 31.10.2018. Thus, in terms of the CBDT order



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No.F.No.225/358/2018/ITA.II dated 08.10.2018, the due date for the purposes of the return of income as well as the filing of Audit Report under Form No.10B is to be reckoned as 31.10.2018. Consequently, no lapse has occurred on the part of the assessee in compliance of the provisions of the Act has wrongly alleged.

6. This being so, the action of the Ld.CIT(A) in denying the benefit on such ground is contrary to the statutory position and thus requires to be set aside and cancelled. The CPC/JAO is directed to substitute and consider the extended due date afresh for determination of eligibility of claim under section 11 & 12 of the Act.

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

Order pronounced in the open Court on 21st November, 2024.

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI



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