

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI

BEFORE SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND

SH. SUDHIR KUMAR, JUDICIAL MEMBER

ITA No.3342/Del/2024
Assessment Year: 2016-17

Arya Samaj Regd GK II, M Block, Road Number1, Greater Kaialsh-II, New Delhi PAN No.AABTA6009L	Vs .	ITO Ward- 1 (1) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Tapas Ram Mishra, Advocate
Respondent by	Sh. Diwakar Singh, Sr. DR

Date of hearing:	25/11/2024
Date of Pronouncement:	25/11/2024

ORDER

PER SUDHIR KUMAR, JM:

1. The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)/ NFAC, New Delhi ('CIT(A)' in short), arising vide order dated 03.06.2024 passed by the CIT(A)

u/s.154 of the Income Tax Act, 1961; (the Act) passed by the Assessing Officer vide order 12.07.2019 concerning assessment year 2016-17.

2. As per the captioned appeal, the assessee seeks to challenge the denial of rectification claimed u/s. 154 against the intimation framed u/s.143 (1) of the Act which gave rise addition to Rs.1,26,78,740/-.

3. When the matter was called for hearing, the Ld. Counsel pointed out that against the adjustments so made, the assessee filed rectification application u/s.154 of the Act dated 22.02.2018 and also revised computation of income to correct arithmetical error crept in, while filing the return. The AO however passed order dated 22.02.2018 u/s. 154 of the Act whereby the relief claimed in the rectification application was denied. Against the rectification order passed by the AO, the assessee preferred appeal before the CIT(A). In the intervening period, the assessee approached the competent authority namely CIT (Exemption) seeking condonation delay u/s. 119 (2) (b) of the Act towards belated filing of audit report in the prescribed form i.e. Form No. 10B for the A.Y. 2016-17 in question. The CIT(Exemption) has granted the condonation of delay towards belated filing of audit report vide order dated 20.02.2020. Thus, the delay was condoned by the CIT(Exemption) while the appeal was pending before CIT(Appeals). The Ld. Counsel for the assessee thus asserted that the exemption denied ought to have been modified by the first appellate authority, in the light of condonation granted by the CIT(Exemption). Similarly, the mistake in putting correct figures

in the ROI is in the league of mistake apparent from record in view of the audited accounts available with the AO.

4. Notwithstanding and without prejudice, the expenses claimed in the returned income also should have been allowed against the income declared while failing the intimation u/s. 143 (1) of the Act. The Counsel thus sought appropriate relief to prevent miscarriage of justice.

5. The Ld. DR for the revenue, on the other hand, pointed that the scope of rectification u/s.154 is limited to mistake apparent from record i.e. mistake manifest and do not involve any long drawn process of reasoning. The case made out by the assessee do not fall in the category of apparent mistake. The Ld. DR however fairly pointed out that the assessee should pursue the grievance against initiation framed under Section 143 (1) of the Act for which the intervening delay in filing the appeal may be condoned by the Tribunal, if so considered expedient.

6. We have carefully considered the rival submissions and perused the material referred to and relied in the course of hearing. It appears that the AO while drawing intimation u/s. 143 (1) of the Act denied relief u/s. 11 due to belated uploading form No. 10 B by the Assessee for the A.Y. 2016-17 in question. The assessee has however, obtained condonation of delay from the competent authority u/s. 119(2)(b) of the Act. It appears that the assessee has also committed arithmetical mistake while filing return of income whereby higher amount of income by way of donations have been wrongly reported. This calls for appropriate correction in accordance with law. The

corresponding expense incurred has also not been allowed while processing return. It appears that proper opportunity statutorily called for has not been provided to assessee while processing return under Section 143 (1) of the Act. Thus, in the totality of the circumstances, while the relief sought by the assessee is not amenable to Section 154 proceedings, however, in the same vain, the assessee is entitled to be heard while framing the assessment u/s. 143 (1) of the Act. Therefore, the present appeal arising 154 proceedings is dismissed with a simultaneous liberty to the assessee to pursue remedy in accordance with law against the intimation framed u/s. 143 (1) of the Act. The assessee shall be entitled to prefer appeal before CIT(A) against the intimation u/s. 143 (1) within 30 days from the date of receipt of this order. The intervening delay in filing the appeal before the CIT(A) stands condoned. The CIT(A) shall entertain the appeal filed by the assessee against intimation under Section 143 (1) as per aforesaid terms without any demur and shall adjudicate the appeal expeditiously

7. In the result, the captioned appeal of the assessee is dismissed.

Order dictated in the open court on 25.11.2024.

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

NEHA, Sr. PS
Date:- .11.2024

Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER