



।आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC" :: PUNE

BEFORE MS.ASTHA CHANDRA, JUDICIAL
MEMBER AND
DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1887/PUN/2024

निर्धारण वर्ष / Assessment Year: 2021-22

Atharv Vijay Yewale Social Foundation, Shilatane, Karla Mawal, Pune – 410405. PAN: AAFTA6703P	V s	The Income Tax Officer, Exemption Ward-1(2), Pune.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Jitendra Tiwari and Shri C.T.Tiwari, Shri Nishant Prajal – AR's
Revenue by	Shri A.D.Kulkarni – Addl.CIT(DR)
Date of hearing	19/11/2024
Date of pronouncement	26/11/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This appeal filed by the assessee directed against the order of Id.Commissioner of Income Tax(Appeals)[NFAC] u/sec.250 of the Income Tax Act, 1961; dated 15.01.2024 for the A.Y.2021-22.

The Assessee has raised the following grounds of appeal :

“1. The CIT (A) failed to recognize the fact that the trustees & members of the assessee Trust above mentioned belong from rural background hence they are not much adversely aware of rules & regulation of Income Tax Act.



2. *Initially, the assessee being a Trust received rejection of application for Registration under section 12A on 24-09-20, there after returns for the F.Y 20-21 was filed as on 31-12-20 with the help of an consultant.*
3. *The consultant adversely Claimed exemption under section 11 of the Act in the said ITR which was not known to the Assessee trustees during the course of assessment proceeding.*
4. *The assessee was under impression that facts will be considering the status of the TRUST' as AOP and following the commercial principal expenses incurred would be allowed.*
5. *However, the CIT (A) erred in determining the assessed income by not allowing the relevant expenses incurred by the trust during the year under consideration.*
6. *The CIT (A) has erred by disallowing the expenses by not following the commercial business principal.*
7. *The CIT (A) has erred by not allowing the expenses incurred during the year relevant corresponding to the receipt which has been determined as a total income of the assessee trust.*
8. *The assessee being from rural background are not much adversely knowledgeable, hence it took them a while to approach entities of legal knowledge and further process with the appeal.*
9. *The assessee further states that they have full merits in the said matter, and hence it is prayed to this Hon'ble Authority to kindly take the said matter on board considering the rule of law, equity & natural justice.”*

Submission of Id.AR :

2. Ld.Authorised Representative of the Assessee submitted that assessee had incurred expenditure which have not been allowed, Assessing Officer taxed entire gross receipts, which is bad in law.



2.1 The part of the written submission filed by the assessee is reproduced as under :

Social Objective: *The Atharv Vijay Yewale Social Foundation, located in Karla, Mawal (a rural area 60 kilometers from Pune), was formed with a noble intent. The founder, Shri Vijay Yewale, after the tragic demise of his only son, transferred all his belongings and savings to establish this trust. The trust works towards skill development, tree plantation, and various charitable activities for the poor.*

Challenges Faced: *Being situated in a rural area, the trust has limited access to professional advice, including chartered accountants and tax consultants. This lack of expertise has contributed to compliance challenges.*

Issue in Dispute

- *The AO assessed the entire gross receipts of Rs.16,23,173 as taxable income without allowing any deduction for expenses incurred by the trust in fulfilling its objectives.*
- *The CIT(A) confirmed the disallowance of expenses and taxed the entire receipts, disregarding the principles of accounting and the intent of the Finance Act, 2022.*

Principle of Net Income:

Taxing gross receipts is contrary to the commercial principles of taxation. It is a settled principle that taxation is imposed on net income (revenue less allowable expenses). In this case, the trust has genuine expenses incurred for its charitable activities, which should be deducted.

Trust as an AOP:

In the absence of registration under Section 12A, the trust should be treated as an Association of Persons (AOP). As per the provisions of the Act, only net income of the AOP is taxable after deducting expenses incurred for its objectives.

Social Intent and Rural Context:

The trust operates with a social purpose in a rural area with limited resources and capacity. Denying genuine expenses on the basis of non-registration creates undue hardship and goes against the trust's



charitable objectives.

Request for Relief:

We humbly submit that the trust's total income be reassessed by allowing deductions for expenses incurred during the relevant year. Necessary directions may kindly be issued to the AO to assess the net income in accordance with the provisions of law and the intent of the Finance Act, 2022.

Submission of Id.DR :

3. Ld.Departmental Representative for the Revenue accepted that net income needs to be taxed.

Findings & Analysis :

4. We have heard both the parties and perused the records. In this case, assessee had filed Return of Income for A.Y.2021-22 on 31.03.2022 declaring total income at Rs.NIL and claiming exemption u/sec.11 of the Income Tax Act, 1961. During the assessment proceedings, Assessing Officer noted that assessee's application for registration u/sec.12A of the Act was rejected vide order dated 24.09.2020. It is mentioned by the Assessing Officer in the assessment order that Gross Receipts of the assessee were Rs.16,23,173/- and Assessee had claimed expenditure of Rs.16,02,538/-. However, Assessing Officer taxed entire receipts. Ld.CIT(A) confirmed the addition. Before us, ld.AR has simply stated that Net Income needs to taxed. Ld.AR submitted that AO



should have reduced the expenditure claimed by assessee. Assessee had filed copy of Audited Income & Expenditure Account. Though, Assessee do not have any registration u/sec.12A of the Act, that does not give permission to the AO to tax total receipts. Only the income of the assessee can be taxed. Admittedly, there are certain expenditures which have been shown by the assessee in the Income & Expenditure Account. The AO has failed to consider these expenditures. Therefore, in the interest of justice, we set-aside the order of the AO to the AO for denovo adjudication. Assessing Officer shall provide opportunity to the Assessee. Assessee shall file necessary documents before Assessing Officer. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

5. In the result, appeal of the assessee is Allowed for statistical purpose.

Order pronounced in the open Court on 26th November, 2024.

Sd/-
(MS.ASTHA CHANDRA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 26th Nov, 2024/ SGR*



आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.