

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1500 /Bang/2024
Assessment Year: 2017-18

The Income Tax Officer, Ward - 1(1), Mangalore.	Vs.	Hariram Memorial Medical Centre, Mangalore.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Sunaina Bhatia, Advocate
Revenue by	:	Shri V Parithivel, JCIT (DR)

Date of hearing	:	09.10.2024
Date of Pronouncement	:	26.11.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the revenue against the order passed by the NFAC, Delhi dated 21/06/2024 in DIN No. ITBA/NFAC/S/250/2024-25/1065909868(1) for the assessment year 2017-18 arising in the matter of assessment order passed under s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2017-18.

2. The Revenue has raised the following grounds of appeal:

"1. *The Ltd.CIT(A) erred in determining that the assessee's case does not fall under the provisions of Section 44ADA for the assessee-firm earns its income under the head 'business and not profession'. The nursing home run by the assessee squarely fits the*

definition of a profession' under section 2(36). Unlike regular businesses, a nursing home serves a unique purpose-it represents a vocation dedicated to providing essential healthcare services, Managing a nursing home requires specialized knowledge and expertise. The medical professionals working there contribute their skills to patient care. Therefore, the AO appropriately categorized the nursing home income as 'profession' income under section 44ADA,

2. The Ld.CIT(A) erred in deleting the addition made by the). In the appeal filed by the Assessee with the CIT(A), a significant portion of the cash deposit was claimed as an unsecured loan received from various parties during the year. However, instead of remanding the case back to the AO for a comprehensive determination of income, the 1-d.CIT(A) chose to delete the addition made by the A<), despite the need for a thorough examination of relevant documents related to this unsecured loan and the assessee"s claims.

3. The Ld.CIT(A) erred in calling non-issuance of notice u/s.143(2) as an error. The assessee received a notice u/s,148 dated 29.03.2021, requiring them to file their income tax return within 30 days. Despite an additional notice U/s. 142(l) dated 28.06.2021 with a specific deadline for filing return of income, the assessee failed to comply. Consequently, the belated FIR filed on 18.02.2022 cannot be considered a valid response to the notice U/s.148. The importance of timely compliance was emphasized by the ITAT in the case of Gonuguntla Nirmala Devi vs.ACIT (ITA No.412/HYD/ 2022). Adhering to statutory requirements is crucial to void pitfalls in income tax assessments."

3. At the time of hearing, it was noticed that the appeal filed by the Revenue is hit by CBDT Circular No. 09 of 2024 dated 17/09/2024, recently issued revising the previous thresholds limits pertaining to tax effects. As per the aforesaid Circular read with instruction, all pending appeals filed by Revenue are liable to be dismissed as a measure for reducing litigation where the tax effect does not exceed the prescribed monetary limit which is now revised at Rs. 60 Lakhs. In the instant case, the tax effect on the disputed issues raised by the Revenue is stated to be not exceeding Rs. 60 lakhs and therefore appeal of the Revenue is required to be dismissed *in limine*.

4. The Learned DR for the Revenue fairly admitted the applicability of the CBDT Circular No. 09 of 2024. Accordingly, appeal of the

Revenue is dismissed as not maintainable. However, it will be open to the Revenue to seek restoration of its appeal on showing inapplicability of the aforesaid CBDT Circular in any manner within the time prescribed under the law.

5. In the result, the appeal of the Revenue is dismissed.

Order pronounced in court on 26th day of November, 2024

Sd/-
(KESHAV DUBEY)
Judicial Member

Sd/-
(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 26th November, 2024

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore