

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member
And Shri Narendra Prasad Sinha, Accountant Member**

**ITA No. 1469/Ahd/2024
Assessment Year 2016-17**

Gujarat Rajput Hitwardhak Mandal Opp. Hostel Ground, Sevashram Road, Bharuch, Gujarat-392001 PAN: AAATG4129Q (Appellant)	Vs	Income Tax Officer Ward Exemption, Income Tax, Vadodara (Respondent)
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**Assessee Represented: Shri Mukund Rao, A.R.
Revenue Represented: Shri Shri Rignesh Das, Sr.D.R.**

Date of hearing : 28-11-2024
Date of pronouncement : 29-11-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the ex-parte appellate order dated 10.06.2024 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), confirming the levy of penalty under section 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2016-17.

2. Brief facts of the case is that the assessee is a public trust registered under the Bombay Public Trust Act, 1950 and also obtained registration u/s. 12A of the Act vide order dated 28-11-2002. The object of the Trust is educational and charitable activities. For the Asst. Year 2016-17, the assessee Trust has received interest income, donation and grant income. The Trust has shown gross receipts of Rs.1,48,36,962/- and applied income of Rs.20,00,804/- towards object of the Trust, thereby claimed exemption u/s. 11AB of Rs.1,27,62,834/- and deduction u/s. 11(1)(a) of Rs. 60,890/-.

3. During the assessment proceedings, the assessee Trust has reduced exemption u/s. 11(1)(d) of the Act to Rs. NIL by showing Rs. 19,16,494/- as non-corpus donation and Rs. 1,08,46,340/- as exempt agricultural income. Since the assessee made wrong claim u/s. 11(1)(d), penalty proceedings u/s. 271(1)(c) was initiated and levied a penalty of Rs. 4,49,200/-.

4. Aggrieved against the penalty order, assessee filed an appeal before Ld. CIT(A) who has given five opportunities of hearing between 07-01-2021 to 30-05-2024. However none of the notices were responded by the assessee Trust thereby dismissed the appeal for non-prosecution.

5. Aggrieved against the same, assessee is in appeal before us. Ld. Counsel could not justify for the non-appearance before Ld. CIT(A) in spite of five opportunities given to the assessee Trust. Ld. Counsel undertaken to appear before Ld. CIT(A) if one more opportunity be given to the assessee.

6. Per contra, Ld. Sr. D.R. appearing for the Revenue submitted to confirm the levy of penalty because of non-cooperation by the assessee.

7. We have given our thoughtful consideration and perused the materials available on record. As assessee undertakes to appear before Ld. CIT(A) to contest the case on merits. In the interest of Principle of Natural Justice, we deem it fit to set aside the matter back to the file of Ld. CIT(A), NFAC on the conditions of payment of cost of Rs.5,000/- payable by the assessee to the Income Tax Department within two weeks of receipt of this order copy. On compliance of the same, Ld. CIT(A), NFAC should give an opportunity of hearing to the assessee and then pass orders on merits of the case.

8. In the result, the appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced in the open court on 29-11-2024

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Ahmedabad : Dated 29/11/2024

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)

5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद