

आयकर अपीलिय अधिकरण  
दिल्ली पीठ "एसएमसी", दिल्ली  
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC", DELHI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं.467/दिल्ली/2024 (नि.व. 2017-18)

ITA No.467/DEL/2024 (A.Y.2017-18)

Paramhans Swami Vivek Bharti Mission,  
BB-17D, Janakpuri, B-1, West Delhi 110058

PAN: AAATP-8829-N

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer, Exemption Ward,  
Faridabad Haryana

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : None  
प्रतिवादीद्वारा/ Respondent by : Ms. Shivani Bansal , Sr. DR  
सुनवाई की तिथि/ Date of hearing : 10/09/2024  
घोषणा की तिथि/ Date of pronouncement: : 28/11/2024

आदेश/ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), Additional/Joint Commissioner of Income Tax (Appeals)-10, Mumbai (hereinafter referred to as 'the CIT(A)') dated 05.01.2024, for assessment year 2017-18.

2. The solitary issue in this appeal is against addition of Rs.42,00,000/- for non filing of Form 9A along with the return of income. The facts of the case as emanating from documents on record are: The assessee is a Trust Registered u/s. 12A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). The assessee filed its original return of income on 07.11.2017 declaring total income

as 'Nil'. The assessee filed revised return of income on 20.01.2018 along with Form No. 9A. The exemption claimed by the assessee u/s. 12AA of the Act was denied by CPC, Bangalore while processing return of income as Form No. 9A was not filed along with the original return of income. Aggrieved, by the intimation dated 25.03.2019 u/s. 143(1) of the Act, the assessee filed appeal before the CIT(A). The CIT(A) rejected assessee's contention and confirmed the addition. Hence, present appeal by the assessee.

3. Ms. Shivani Bansal, representing the department vehemently supported the order of CIT(A) and prayed for dismissing appeal of the assessee. She further place reliance on the decisions of Hon'ble Apex Court in the case of *PCIT vs. Wipro Ltd. in Civil Appeal No. 7620/2021* decided on 11.07.2022.

4. Submissions made by Id. DR heard and orders of the authorities below examined. The solitary reason for denying benefit of section 12A of the Act to assessee is non filing of Form No. 9A along with the return of income. Though, the same was filed along with revised return of income on 20.01.2018. The requirement of filing Form No. 9A is mandatory. The assessee is required to file Form 9A where it fails to apply 85% of its income referred to in section 11(1)(a) or (b) of the Act and accumulates the deficit to be applied in the next financial year or in the year of receipt of income. Further, Rule 17 requires that Form 9A shall be furnished before the expiry of time allowed u/s. 139(1) for furnishing the return of income for relevant assessment year. In the instant case, the assessee has filed Form 9A belatedly along with the revised return of income. The assessee has filed an application u/s. 119 of the Act for condoning delay in filing Form 9A before the PCIT, Chandigarh. The said application is still stated to be pending for disposal.

5. Considering the fact that aforesaid application u/s. 119 of the Act is pending for disposal the issue in appeal is restored to the AO to wait the decision on the said application. After the disposal of application by the competent authority, the AO shall pass the order, in accordance with law.

6. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Thursday the 28<sup>th</sup> day of November, 2024.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 28/11/2024

NV/-

**प्रतिलिपि अग्रेषितCopy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI