

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH : BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT  
AND SHRI KESHAV DUBEY, JUDICIAL MEMBER**

**ITA No.572/Bang/2024  
Assessment Year : 2018-19**

|                                                                                                                                                       |     |                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----|---------------------------------------------------------------------------------------------------------------------|
| <p>M/s. Chitradurga Urban Development Authority,<br/>-01, Kelagote,<br/>Chitradurga – 577 501.<br/><b>PAN : AAALC 0135 A</b><br/><b>APPELLANT</b></p> | Vs. | <p>The Deputy Commissioner of Income Tax (Exemptions),<br/>Circle –1,<br/>Mangalore.<br/><br/><b>RESPONDENT</b></p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----|---------------------------------------------------------------------------------------------------------------------|

|               |   |                                                    |
|---------------|---|----------------------------------------------------|
| Appellant by  | : | Ms. Shreeraksha, CA                                |
| Respondent by | : | Shri. V. Parithivel, JCIT(DR)(ITAT),<br>Bangalore. |

|                       |   |            |
|-----------------------|---|------------|
| Date of hearing       | : | 13.11.2024 |
| Date of Pronouncement | : | 18.11.2024 |

**ORDER**

***Per Prashant Maharishi, Vice President :***

1. ITA number 572/Bangalore/2024 is filed by the Chitradurga Area Development Authority (the assessee/appellant) for assessment year 2018 – 19 against the appellate order passed by the National faceless appeal Centre Delhi (the learned CIT – A) dated 2/2/2024 wherein the appeal filed by the assessee against the assessment order passed under section 143 (3) of The Income Tax Act, 1961 (The Act) dated 6/4/2021 passed by the National e-Assessment Centre (the learned assessing officer) was dismissed.
2. The assessee is aggrieved and has preferred this appeal raising following grounds:  
—
  - i. That the order of the learned Commissioner of income tax (appeals) is insofar as it is prejudicial to the interest of the appellant is bad in erroneously law and against the facts and circumstances of the case.

- ii. That the learned Commissioner of income tax (appeals) erred in law and on facts in deciding the appeal *ex parte* even though the said appeal has become infructuous by the virtue of order under section 119 of the act dated 23/6/2023 passed by The Commissioner Of Income Tax (Exemption), Bangalore, condoning delay in filing form number 10 B and assessment order under section 143 (3) dated 6/4/2021 has been modified accordingly by the assessing officer vide order dated 28/12/2023 making the demand as nil.
3. Brief fact shows that assessee is an urban development authority filed its return of income under section 139 (4A) on 29/3/2019 as a total income of Rs. 4,434,517/-.
4. The return of income was also processed under section 143 (1) on 17<sup>th</sup>/3/2020 at a total income of Rs 19,993,118/- by denying the exemption claimed on account of amount accumulated or set apart for specific purposes of Rs. 15,515,613/- claimed under section 11 (2) of the act. This was because of the reason that assessee filed form number 10 in electronic on 22/2/2020. The return of income was also filed belatedly on 29/3/2029 and therefore the exemption under section 11 and section 12 was denied.
5. ROI was also picked up for scrutiny by issue of notice under section 143 (2) of the act on 22/9/2019 and accordingly assessment order was passed under section 143 (3) read with section 143 (3A) and 143 (3B) of The Income Tax Act wherein exemption under section 11 of Rs 47,918,073/- claimed by the assessee was denied and total income of the assessee was assessed at Rs. 5,23,52,840.
6. The assessee preferred an appeal before the learned CIT – A where no details were submitted on six different occasions and therefore the learned CIT – A dismissed appeal of the assessee.
7. Now the assessee is in appeal before us. It was submitted that that by virtue of an order under section 119 of the act dated 23/6/2023, the Commissioner of income tax (exemption) Bangalore condoned the delay in filing form number 10 B and the assessment order under section 143 (3) dated 6/4/2021 has been modified and fresh order giving effect is passed on 28/12/2023 modifying it by assessing

assessee at Returned income. Copy of such order was also placed before us wherein the total income of the assessee is assessed at returned income.

8. The learned departmental representative also submitted that when the assessing officer has assessed the total income of the assessee at Returned income no grievance survives.
9. We also find that as per the order passed by The Commissioner Of Income Tax (Exemption) Bangalore on 23/6/2023, delay in Filing of form number 10 B have been condoned and an order giving effect to the order of the condonation was passed by the learned assessing officer on 28/12/2023 wherein the returned income of the assessee is accepted as assessed income, we find that the appeal dismissed by the learned CIT – A on 2/2/2024 is not correct. The ld. AO also could have informed the ld. CIT (A) about that appeal becoming infructuous.
10. Even otherwise now the grievance of the assessee does not survive and therefore the learned CIT – A was not correct in dismissing the appeal of the assessee. Accordingly, the appeal of the assessee is allowed.

*Pronounced in the open court on the date mentioned on the caption page.*

Sd/-  
(KESHAV DUBEY)  
Judicial Member

Sd/-  
(PRASHANT MAHARISHI)  
Vice President

Bangalore,  
Dated : 18.11.2024.  
/NS/\*

Copy to:

- |               |                         |
|---------------|-------------------------|
| 1. Appellants | 2. Respondent           |
| 3. DRP        | 4. CIT                  |
| 5. CIT(A)     | 6. DR, ITAT, Bangalore. |
| 7. Guard file |                         |

By order

Assistant Registrar,  
ITAT, Bangalore.