

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

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1955/Bang/2024
Assessment Year : 2022-23

M/s. Akhila Karnataka Bramana Mahasabha (Regd), No.5/1, Shankar Mutta Road, Shankarpuram, Bengaluru – 560 004. PAN : AAATA 8481 H	Vs.	The Income Tax Officer (Exemptions), Ward – 1, Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Raghavendra Chakravarthy, CA.
Revenue by	:	Shri. Subramanian S, JCIT(DR)(ITAT), Bengaluru.

Date of hearing	:	21.11.2024
Date of Pronouncement	:	29.11.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the Order of the National Faceless Appeal Centre (NFAC) [DIN and Order No.ITBA/APL/S/250/2024-25/1068118463(1)] dated 29.08.2024.

2. Briefly stated, the facts of the case are that assessee is a registered Trust eligible for exemption under section 12A and recognized under section 80G of the Act. The assessee filed return of income on 05.11.2022 declaring Nil income after claiming exemption under section 11 & 12 of the Act. The

assessee has filed Form 10B in which the assessee has clearly mentioned in column No.5 wherein it is mention a sum of Rs.11,21,140/- for accumulation and Rs.22,26,500/-was deposited. The return was processed under section 143(1) of the Act determining the total income at Rs.22,52,692/- against the declared Nil income. While processing the return by the CPC, the benefit under section 11(2) of the Act has been denied to the assessee and assessed the taxable income at Rs.22,52,692/-. The assessee raised the issue before the CIT(A) that whether the assessee's claim of accumulation made of Rs.75 lakhs under section 11(2) of the Act, without providing any opportunity and CPC is not justified. This issue was raised before the CIT(A). The CIT(A) noted that the assessee had filed its original return of income on 05.11.2022 which is within the extended due date of 07.11.2022 but Form 10B was filed on 02.04.2024. In this regard, the CIT(A) examined provision of section 12A(1)(b) of the Act, Rule 17B and section 44AB of the Act and he noted that the assessee should have got its accounts audited within the specified time and it had to file Form 10B prior to one month of the due date of filing of the return of income. In the instant case, the due date of filing of return of income was 07.11.2022. However, Form10B was filed on 02.04.2024 which is beyond the due date in terms of section 44AB of the Act. Therefore, he noted that provision of section 11(2) of the Act is not applicable and CPC has disallowed the exemption claimed by the assessee rightly.

3. Aggrieved from the above Order, assessee filed appeal before the Tribunal and learned Counsel submitted that the assessee filed its return of income on 05.11.2022 merely Form 10B could not be filed. Assessee had invested its funds as prescribed in section 11(5) of the Act upto the end of

the Financial Year . Only the report was not filed within the due date and it was of the opinion of the assessee that filing of income tax return was sufficient and no further Form was required to be filed. So it was under the misconception and due to lack of proper guidance, the Form10B could not be filed. The learned Counsel also submitted that as per CBDT Circular No.16/2014 dated 18.11.2024, the delay in filing Form 10B shall be condoned and assessee is eligible for getting exemption as per sections 11 and 12 of the Act. He has filed written synopsis containing pages 1 to 7 which is placed on record. He further submitted that the matter may be sent back to the AO for fresh consideration in light of the circulars. During the course of hearing, the learned Counsel has also relied on the following case laws:

- CIT -Vs- Sakal Relief Fund (295 CTR 561)
- CIT -Vs- AKS Alloys Pvt Ltd (18 Taxmann.com 25 Mad)
- CIT -Vs- Ace Multitaxes Systems (P) Ltd., (2009) 317 ITR 2017 (Kar.)
- CIT -Vs- Contimeters Electricals (P) Ltd., (2009) 317 ITR 249 (Del.)
- CIT -Vs- A.N.Arunachalam (1994) 208 ITR 481 (Mad.)
- CIT -Vs- Jayant Patel (2001) 248 ITR 199 (Mad.)
- CIT -Vs- Shivanand Electronics (1994) 209 FIR 63 (Born.)
- Zenith Processing Mills -Vs- CIT (1996) 219 ITR 721 (Guj.)
- CIT -Vs- Mahalaxmi Rice Factory (2007) 294 ITR 631 (Punj.&Har.)
- CIT -Vs- Berger Paints (India) Ltd., (2002) 254 ITR 503 (Cal.)

4. The learned DR relied on the Order of the lower authorities.

5. Considering the rival submissions and perusal of the material available on record, we note that the return was filed by the assessee on 05.11.2022. However, Form 10B was filed on 02.04.2024 and CPC has not

allowed the claim of exemption under section 11 and 12. The CIT(A) has passed Order before the issue of Circular. He has merely disallowed the claim of the assessee that Form 10B was filed belatedly. Considering the Circular issued by the CBDT noted supra, and relying on the judgement cited above, we remit the issue back to the file of the jurisdictional AO for fresh consideration and decide the issue as per law. Needless to mention that assessee be provided sufficient opportunity of hearing and assessee is directed to co-operate with the Revenue authorities and shall not take unnecessary adjournments for early disposal of the case.

6. In the result, the appeal by the assessee is allowed for statistical purposes.

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

Sd/-
(KESHAV DUBEY)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated : 29.11.2024.
/NS/*

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.