

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

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.1911/Bang/2024
Assessment Year: 2017-18

R.K. Sipani Foundation 868, 5 th A Cross 17 th E Main, 6 th Block Koramangala Bangalore Karnataka 560 034 PAN NO : AABTR2113E	Vs.	ITO (E) Ward-2 Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Sri Suresh Muthukrishnan, A.R.
Respondent by	:	Sri Subramanian S., D.R.

Date of Hearing	:	03.12.2024
Date of Pronouncement	:	05.12.2024

O R D E R

PER PRAKASH CHAND YADAV, JUDICIAL MEMBER:

Present appeal of the assessee is arising from the order of ld. CIT(A) dated 30.07.2024 having DIN & Order No. ITBA/ NAFC/S/250/204-25/1067146710(1) for the assessment year 2017-18.

2. The assessee has raised 10 grounds of appeal. However, at the time of representation of the appeal, the counsel for the assessee has submitted that the matter requires fresh consideration at the end of ld. CIT(A) as no notice of hearing issued by the office of ld. CIT(A) has ever been served upon the assessee. Ld. Counsel further drawn the attention of Bench towards the Form 35, in which it was categorically mentioned that no notice of hearing shall be issued via e-mail.

3. The ld. D.R. relied upon the order of the authorities below.

4. After considering the rival submissions, we observe that in the column of personal information of Form 35, the assessee has categorically mentioned that no notice of hearing shall be issued via mail. Further, the office of Id. CIT(A) has not able to establish whether any notice of hearing has been sent via other mode. It is also apparent from the order of Id. CIT(A) that the Id. CIT(A) has decided the appeal without dealing with the merits of the case, which in our view is not the correct approach as per the provisions of section 250(6) of the Income Tax Act, 1961. We also observe that the assessee was intending to file additional evidences before the CIT-(A) in terms of rule 46A of the Income Tax Rules. This fact is coming out from the perusal of column number 12 of Form-35. Therefore, considering the facts and circumstances of the case, we hereby restore this matter to the file of Id. CIT(A) and direct him to decide the appeal on merits. We also note that the counsel of the assessee has assured that now the assessee will check the e-mail ID as mentioned in the portal of the Income Tax Department and comply with the notices of hearing. Therefore, the matter is restored to the file of CIT(A) for fresh adjudication. Needless to mention that the Ld CIT(A) will provide reasonable opportunity of being heard to the assessee.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 5th Dec, 2024

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Sd/-
(Prakash Chand Yadav)
Judicial Member

Bangalore,
Dated 5th Dec, 2024.
VG/SPS

Copy to:

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

By order
Asst. Registrar,
ITAT, Bangalore.