

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI SONJOY SARMA, JM**

**ITA No.1938/KOL/2024
(Assessment Year: 2018-19)**

Parivaar Education Society

C/o Subash Agarwal &
Associates, Advocates,
Siddha Gibson, 1, Gibson
Lane, Suite 213, 2nd Floor,
Kolkata-700069, West Bengal

(Appellant)

**DCIT, Circle 1(1),
Exemption**

10, Sir Willam Jones Sarani,
Middleton Row, park Street
Area, Kolkata-700071,
West Bengal

Vs.

(Respondent)

PAN No. AAATP8497J

Assessee by : Shri Siddarth Agarwal, AR
Revenue by : Shri Subhendu Datta, DR

Date of hearing: 20.11.2024

Date of pronouncement : 05.12.2024

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 29.07.2024 for the AY 2018-19.

02. The assessee has challenged the order of Id. CIT (A) on various grounds raised in the following memorandum of appeal which are extracted below for the sake convenience:-

"1. (a) For that on the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in upholding the action of the A.O. in denying the benefit of exemption claimed u/s 11 of the Act.

(b) For that the Ld. CIT(A) ought to have directed the A.O. to allow benefit of statutory accumulation of 15% amounting to Rs. 1,84,99,307/- as per the provision of section 11(1)(a).

2. For that on the facts and circumstances of the case, the Ld. CIT(A) ought to have directed the A.O. to treat capital expenditure of Rs. 12,04,12,460/- incurred by the assessee as an application of income.

3. For that the Ld. CIT(A) failed to appreciate that the A.O. did not provide any opportunity of hearing to the assessee before furnishing Remand Report to him."

03. At the time of hearing, the Id. Counsel for the assessee filed an application before the Bench dated 17.10.2024 under rule 46A for admission of additional evidences from page no. 3 to 147, which have also been submitted before the Id CIT(A). The Id. AR vehemently submitted before us that the examination of these evidences is of paramount of importance and goes to the root of the matter for correct adjudication of the issue involved in the present appeal. These evidences comprises of affidavit sworn by the President of assessee society, land deeds, valuation report-cum project status of construction work, copies of ledger of movable assets addition with sample bills. The contention of the counsel of the assessee was that these evidences were filed before the Id. CIT (A) and Id. CIT (A) called for the remand report on these evidences however, the Id. AO prepared an adverse remand report without providing any opportunity of hearing. The Id. AR therefore argued that the present evidences may kindly admitted and the appeal of the assessee may be restored to the file of the Id. AO for correct appreciation of these evidences and adjudicate the matter after taking into account the same .
04. The Id. DR on the other hand strongly opposed the admission of these evidences at this stage and also opposed the restoration of the issue again to the file of the Id. CIT (A) as this would involve wastage of time and manpower of the department.

05. After having the rival contentions and perusing the materials available on record, we find that the evidences filed by the assessee in the form of additional evidences under Rule 46A of the Act are quite vital for adjudication of the issue involved in the present appeal. We note that the Id. AO has furnished the remand report without any opportunity given to the assessee which was considered by Id. CIT (A) without appreciating the fact that the remand report was prepared by the AO without allowing reasonable opportunity of hearing to the assessee. Under these circumstances, we are of the view that in the interest of justice, one more opportunity may be given to the assessee to present its case before the Id. AO after admitting these evidences. Accordingly, we admit these evidences and remand the appeal before the Id. AO for fresh adjudication for giving reasonable opportunity to the assessee to explain these documents. The appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 05.12.2024.

Sd/-
(SONJOY SARMA)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 05.12.2024

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to :

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata