

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

**Before Shri Duvvuru RL Reddy, Vice-President (KZ)
&
Shri Sanjay Awasthi, Accountant Member**

**I.T.A. No. 1927/KOL/2024
Assessment Year: 2017-2018**

***Ramkrishna Mandal Institute of
Education,.....Appellant
Rashpur, Amta-1,
Rashpur B.O., Howrah-711401,
West Bengal
[PAN:AABTR9493B]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-1(1), (Exemption), Kolkata,
10B, Middleton Row, Kolkata-700071***

Appearances by:

*Shri P.K. Roy, A.R. and Shri Ripan Chand Haldar, A.R.,
appeared on behalf of the assessee*

*Shri Arun Kanti Dutta, Addl. CIT, Sr. D.R., appeared on
behalf of the Revenue*

**Date of concluding the hearing: November 19, 2024
Date of pronouncing the order: December 10, 2024**

O R D E R

Per Duvvuru RL Reddy, Vice-President(KZ):-

The present appeal is directed at the instance of assessee against the order of Id. Addl./JCIT(Appeals) dated 30th July, 2024 passed for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is an Educational Society registered under section 12AA of the Act dated 24th February, 2016. The assessee is also registered under section 80G(5)(vi) of the Act dated 24th February, 2016. The assessee filed form 10B and claimed exemption under section 11 of the Act. The main activity of the Trust was educational in the name and style of Ramkrishna Mandal Institute of Education. The case of the assessee was selected for scrutiny through CASS on the ground that approval obtained under section 80G and large increase in total voluntary contributions. During the course of assessment proceedings, on perusal of balance-sheet, it was observed that the assessee had directly charged Rs.22,96,042/- on account of property fund. The ld. Assessing Officer issued a letter to the assessee asking for explanation in this regard. In response to the letter, the assessee has submitted its response on 29.11.2019 that the said amount of Rs.22,96,042/- was not considered under “derived of income” as it is contra entry from the Fixed Assets Schedule of the appellant. Therefore, the assessee could not explain the transactions as to where did this fund come from. Therefore, a final show-cause notice dated 06.12.2019 was issued to the assessee asking the assessee to explain as to how did the fund of Rs.22,96,042/- appear in the balance-sheet on liability side. The assessee was also requested to show-cause as to why the receipt of Rs.22,96,042/- should not be treated as part of income of the assessee. The assessee offered its explanation, but after considering the explanation, the ld. Assessing Officer came to the conclusion that it was not proved that the said amount/receipt

was capital in nature. Hence, the said receipt of Rs.22,96,042/- is treated as income of the assessee and added back to the income of the assessee.

3. On being aggrieved, the assessee preferred an appeal before the ld. Addl./JCIT(Appeals).

4. The ld. Addl./JCIT(Appeals) fixed at several dates of hearings but there was no response from the assessee. Thereafter the ld. Addl./JCIT(Appeals) dismissed the assessee's appeal by confirming the order passed by the ld. Assessing Officer basing on the material available on record.

5. On being aggrieved, the assessee preferred an appeal before the Tribunal.

6. We have heard both the sides. It was the submission of the ld. Counsel for the assessee that the ld. Addl./JCIT(Appeals) has not given sufficient opportunity to the assessee to explain the nature of the receipt of the amount. He has not given sufficient opportunity to the assessee to explain that the receipt, which was received by the assessee, is in the nature of capital receipt but not in the nature of revenue receipt. He further pleaded that the ld. Addl./JCIT(Appeals) has erred in confirming the order passed by the ld. Assessing Officer. Therefore, he prayed one more opportunity to substantiate the assessee's claim.

7. We have heard both the sides and carefully perused the materials available on record. We have also noticed that the ld. Assessing Officer passed the assessment order under section 143(3) of the Act. On examining the facts of the case, we find that the ld. Addl./JCIT(Appeals) had posted the case on several occasions, but there was no response on behalf of the assessee before the ld. Addl./JCIT(Appeals) on the dates of hearing with regard to the details as called for by the ld. Addl./JCIT(Appeals). Therefore, the ld. Addl./JCIT(Appeals) was left with no other option except adjudicate the appeal *ex-parte* and dismissed the appeal by confirming the addition made by the ld. Assessing Officer. Therefore, we are of the considered view that the ld. Addl./JCIT(Appeals) instead of disposing the appeal on merits, to CIT(A) dismissed the appeal *ex-parte*. Therefore, considering the facts and circumstances of the case and considering the issues involved in the appeal as well as considering the plea of the ld. A.R., by following the principles of natural justice, we hereby remit the matter back to the file of Ld. Addl./JCIT(Appeals) in order to consider the appeal afresh and decide the case on merits by providing one more opportunity to the assessee of being heard in accordance with the principles of natural justice. At the same breath, we also hereby caution the assessee to promptly co-operate before the Ld. Addl./JCIT(Appeals) in the proceedings failing which the Ld. Addl./JCIT(Appeals) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on the record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 10/12/2024.

Sd/-

(Sanjay Awasthi)
Accountant Member

Sd/-

(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 10th day of December, 2024

*Copies to :(1) Ramkrishna Mandal Institute of Education,
Rashpur, Amta-1,
Rashpur B.O., Howrah-711401,
West Bengal*

*(2) Income Tax Officer,
Ward-1(1), (Exemption), Kolkata,
10B, Middleton Row, Kolkata-700071*

*(3) ADDL/JCIT(A), Ranchi;
(4) CIT - , Kolkata;
(5) The Departmental Representative;
(6) Guard File*

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By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.