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IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad

Before Shri Laliet Kumar, Judicial Member and
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No.764/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2018-19)

Income Tax Officer (Exemption Ward) TIRUPATI	Vs.	Sri Vani Educational Society, Anantapur PAN: AACTS9412L
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri A.V.Raghuram, Advocate	
राजस्व द्वारा / Revenue by::	Shri Mookambikeyan, SR-DR	
सुनवाई की तारीख / Date of hearing:	13 / 11 / 2024	
घोषणा की तारीख / Pronouncement:	02 / 12 / 2024	

आदेश / ORDER

Per Madhusudan Sawdia, A.M.:

This appeal filed by the Revenue is directed against the order, dated 14/06/2024 of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), relating to A.Y.2018-19.

2. The assessee raised the following grounds:

"1. Whether the decision of learned CIT (A) is correct in considering the gross receipts of each entity run by the society separately instead of considering the entire receipts of the society for claim of exemption u/s 10(23C)(iiiad)?"

2. Whether the learned CIT (A) is correct in considering the claim of exemption u/s 10(23C)(iiiad) besides the fact that the receipts of the society are more than one crore?

3. Whether the decision of the learned CIT (A) is correct in directing the Assessing Officer to allow the claim of the assessee by relying upon the decisions of various High Court, though there is no specific order of jurisdictional High Court of Andhra Pradesh is available as of now?

4. Any other ground that may be urged at the time of hearing?.

3. The brief facts with regards to this appeal are that the assessee is a Trust running three separate educational institutions and the total receipt from all the three educational institutions of the assessee was Rs.2,04,10,734/-. The case of the assessee was selected for complete scrutiny for not filing the audit report in Form 10BB along with the return of income. The assessee relying on the decision of the Hon'ble Karnataka High Court in the case of CIT & ANR vs. Children's Education Society (29 DTR 158) (Kar.) and the Hon'ble Jammu & Kashmir High Court in the case of Vivekanand Society of Education and Research vs. CIT & Anr, reported in ITA No.23/2014, dated 2/9/2017 submitted that the receipt in the case of each education institution is less than Rs.1 crore and therefore, as per the provisions of section 10(23C)(iiiad), the income of the assessee is exempt and the assessee is not required to get its books of accounts audited. The Assessing Officer contending that the decision of the Hon'ble Karnataka High Court & the Hon'ble Jammu & Kashmir High Court (Supra) are not applicable to the case of the assessee and computed the taxable income of the assessee at Rs.2,04,10,734/- vide order u/s

143(3) r.w.s. 143(3A) & 143(3B) of the I.T. Act, 1961 dated 16.03.2021.

4. Aggrieved with the order of the Assessing Officer, the assessee filed an appeal before the learned CIT (A). The learned CIT (A) relying on the decisions of the Hon'ble Karnataka and Jammu & Kashmir High Courts (Supra) contended that the assessee is not required to get his books of account audited, if the receipt of each institution is less than Rs.1 crore and accordingly deleted the additions made by the Assessing Officer.

5. Aggrieved by the order of the learned CIT (A), the Revenue is in appeal before the Tribunal.

6. The learned DR submitted that, as per the provisions contained under section 10(23C)(iiiad) r.w. rule 2BC, the total receipt of the assessee is to be seen instead of individual receipts of each institution. As the total receipts of the assessee exceeds Rs.1 crore, the assessee was required to get his books of account audited and was required to file form 10BB along with the return of income. As the assessee neither got his books of account audited nor filed Form 10BB along with the return of income, the Assessing Officer has rightly made addition of Rs.2,04,10,734/-. Therefore, the learned DR prayed before the Bench to set aside the order of the learned CIT (A) and upheld the additions made by the Assessing Officer.

7. Per contra, the learned AR for the assessee relying on the decisions of the Hon'ble Karnataka and Jammu &

Kashmir High Courts (Supra) submitted that, receipt of each educational institution has to be seen and not the total receipt of the assessee for considering, whether the books of account of the assessee is required for audit or not. As individual receipt of each educational institution is less than Rs.1 crore, the assessee was neither required to get his books of account audited, nor required to file Form 10BB along with return of income. Therefore, the learned AR relying on the order of the learned CIT (A) prayed before the Bench to uphold the order passed by the learned CIT (A).

8. We have heard the contentions of either side and also gone through the record, in light of submissions made by either side. We have also gone through the decision of the Hon'ble Karnataka and Jammu & Kashmir High Courts(Supra). Under the similar situations, both the Hon'ble High Courts have held that, if the individual receipts of an educational institution is less than Rs.1 crore, even if the total receipt of the assessee exceed Rs. 1 crore, then the assessee is neither required to get its books of account audited, nor required to file Form 10BB along with return of income. Therefore, respectfully following the decision of the Hon'ble Karnataka and Jammu & Kashmir High Courts(supra), we hold that, as the individual receipts of all the three educational institutions are less than Rs.1 crore, the assessee is neither required to get its books of account audited nor required to file Form 10BB along with return of income. Therefore, we find no irregularity in the order passed by the learned CIT (A) and therefore, we uphold the

order of the learned CIT (A) and dismiss the appeal filed by the Revenue.

9. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the Open Court on 2nd Dec., 2024.

Sd/-

Sd/-

(LALIET KUMAR) JUDICIAL MEMBER	(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
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Hyderabad, dated 2nd Dec., 2024

** Reddy gp/ Vinodan/sps*

Copy to:

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2	Sri Vani Educational Society, Maruthi Nagar, 4 th Cross, Anantapur 515001 A.P
3	Pr. CIT – Tirupati
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order