

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.333/Nag./2024
(Assessment Year : 2015-16)

Shri Vilasrao Deshmukh Shikshan
Prasarak VA Bahudeshiya S Buldana
Ajanta Road, Post Kolwad
Buldhana 443 001 PAN-AAFTS4017A

..... Appellant

v/s

Income Tax Officer
Ward-2, Exemption, Nagpur

..... Respondent

Assessee by : Shri Kishore P. Dewani
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 05/12/2024

Date of Order – 20/12/2024

ORDER

PER V. DURGA RAO, J.M.

Captioned appeal by the assessee is against the impugned order dated 30/01/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2015-16.

2. The assessee has raised following grounds:-

"1. The order passed by Commissioner of Income Tax (Appeals) NFAC u/s 250 of I.T. Act 1961 is illegal, invalid and bad in law.

2. The order passed by CIT(A) u/s 250 of I.T. Act 1961 is without giving reasonable opportunity of being heard and is in violation of principles of natural justice. Order passed is bad in law.

3. *The Hon'ble CIT(A) erred in holding that appellant has not filed return of income and as well as not paid an amount equal to advance tax which was payable and present appeal is not liable to be admitted.*
4. *The CIT(A) erred in holding that assessee has not paid the taxes by way of advance tax and therefore appeal is liable to be dismissed in terms of provisions of section 249(4) of I.T. Act 1961. CIT(A) ought to have admitted the appeal as return was submitted declaring income at NIL.*
5. *The assessee has submitted return of income on 14/11/2018 declaring income at Rs.Nil. Dismissal of appeal by applying provisions of section 249(4) of I.T. Act 1961 by CIT(A) is illegal, invalid and bad in law.*
6. *The learned CIT(A) erred in not considering the statement of Facts and Grounds of Appeal filed along with Form No.35 and dismissed the appeal without adjudicating the various grounds on merits.*
- . *The notice issued u/s 148 of I.T. Act 1961 is illegal, invalid and bad in law. The consequent assessment framed thereupon is liable to be cancelled.*
8. *The assessment framed u/s 144 r.w.s. 147 of I.T. Act 1961 without issue of notice u/s 143(2) of I.T. Act 1961 even though the assessee has filed the return of income in response to notice u/s 148 is bad in law and deserves to be cancelled.*
9. *The income determined by A.O. at Rs. 1,47,44,000/- is unjustified, unwarranted and bad in law.*
10. *The addition made by A.O. at Rs. 1,47,44,000/- in respect to cash deposit in bank account is unjustified, unwarranted and excessive.*
11. *The learned A.O. ought to have held that cash deposited in bank account is out of fees received by assessee from students in cash and thus no amount of cash deposited in bank account remained unexplained and thus addition made by A.O. is unjustified, unwarranted and unsustainable.*
12. *The learned A.O. ought to have held that assessee is registered u/s 12AA of I.T. Act 1961 and is eligible for exemption u/s 11 of I.T. Act 1961.*
13. *The learned A.O. ought to have accepted the income of assessee as Nil as shown in return of income considering the provisions of section 11 of I.T. Act 1961.*
14. *The learned A.O. ought to have held that assessee is substantially financed by the Government and assessee eligible for exemption u/s 10(23C) (iiab) of I.T. Act 1961.*
15. *The assessee denies liability to pay interest under section 234A, 234B and 234C of I.T. Act 1961. Without prejudice, levy of interest under section 234A, 234B and 234C of I.T. Act 1961 is unjustified, unwarranted and excessive.*
16. *Any other ground that shall be prayed at the time of hearing."*

3. During the course of hearing, the Registry has pointed out a delay of 55 days in filing the present appeal before the Tribunal. The assessee has filed application dated nil requesting the Bench for condoning the delay in filing the present appeal. The reason for the delay in filing the present appeal has been mentioned in the said application. In support of the application for condonation of delay, the assessee has also filed Affidavit duly sworn.

4. After considering the reasons stated in the application for condonation of delay and averments made in the affidavit, we are of the opinion that the assessee is prevented in filing the appeal belatedly and we are satisfied that the delay in filing the appeal is due to reasonable cause. Consequently, we condone the delay of 55 days in filing the present appeal and admit the same for adjudication on merit.

5. The learned Counsel, Shri Kishore P. Dewani, appearing for the assessee, submitted that certain details were not filed before the learned CIT(A), which will help the assessee in establishing its case properly if one opportunity is granted to the assessee to enable him to file the details and to substantiate its case properly before the learned Jurisdictional Assessing Officer. He thus prayed that the appeal be restored to the file of the Jurisdictional Assessing Officer.

6. The learned Departmental Representative, Shri Abhay Y. Marathe, appearing for the Revenue did not object to the submissions of the learned Counsel for the assessee.

7. We have heard the rival arguments, perused the material available on record and gone through the orders of the authorities below. We find that the learned CIT(A) desired certain details from the assessee which were not filed. Therefore, in the interest of justice and by following the principles of natural justice, we set aside the impugned order passed by the learned CIT(A) and restore the matter to the file of the Jurisdictional Assessing Officer for denovo adjudication on merit in accordance with law and after considering all the details to be filed by the assessee. The assessee is also directed to comply with the directions of the learned the Jurisdictional Assessing Officer promptly by adducing the evidences / documents as desired by the Jurisdictional Assessing Officer. Thus, all the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 20/12/2024

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 20/12/2024

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur