

आयकर अपीलीय अधिकरण
गुवाहाटी पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री दुव्वुरु आरएल रेड्डी, उपाध्यक्ष (कोलकाता क्षेत्र)
एवं
श्री राकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

SRI DUVVURU RL REDDY, VICE PRESIDENT (KZ)
&
SRI RAKESH MISHRA, ACCOUNTANT MEMBER

I.T.A. Nos.: 41 & 42/GTY/2024
Assessment Years: 2020-21 & 2021-22

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| Luit Academic Development Society (Appellant) | Vs. | ITO, W-2(3), Exem, Guwahati (Respondent) |
| PAN: AAAAL2268E | | |

Appearances:

Assessee represented by : Anil Kumar Agarwala, AR.

Department represented by : Kausik Ray, JCIT

Date of concluding the hearing : December 26th, 2025

Date of pronouncing the order : January 20th, 2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

These appeals filed by the assessee are against the separate orders of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as "the Ld. CIT(A)"] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for AY 2020-21 & 2021-22 dated 07.02.2024. As the issues in both the appeals are

common, they are being decided vide this common order for the sake of convenience and brevity.

2. The assessee is in appeal before this Tribunal raising the following grounds of appeal:

AY 2020-21:

“For that the Learned Commissioner of Income Tax (Appeals) was unjustified in law as well as on facts in dismissing the appeal in limine on the ground that the cause of action did not lie in the order passed u/s 154.

For that the Learned Commissioner of Income Tax (Appeals) erred in failing to hold that the CPC was unjustified in failing to rectify the erroneous order issued by it u/s 143(1) in its subsequent order passed u/s 154.

For that the Learned Commissioner of Income Tax (Appeals) was wrong in failing to direct rectification of the erroneous order issued by the CPC wherein a disallowance of Rs 1,82,71,100/- was made in a manner which was erroneous and self-contradictory.

For that the Learned Commissioner of Income Tax (Appeals) was wrong in failing to strike down the nonspeaking order issued by the CPC wherein a disallowance of Rs 1,82,71,100/- was made without providing any reason for the same in violation of the principles of Natural Justice.

For that the appellant urges leave to add to, modify or withdraw any ground of appeal, before or at the time of hearing of the appeal.”

AY 2021-22:

“For that the Learned Commissioner of Income Tax (Appeals) was unjustified in law as well as on facts in dismissing the appeal in limine on the ground that the cause of action did not lie in the order passed u/s 154.

For that the Learned Commissioner of Income Tax (Appeals) erred in failing to hold that the CPC was unjustified in failing to rectify the erroneous order issued by it u/s 143(1) in its subsequent order passed u/s 154.

For that the Learned Commissioner of Income Tax (Appeals) was wrong in failing to direct rectification of the erroneous order issued by the CPC wherein a disallowance of Rs 1,43,26,742/- was made in a manner which was erroneous and self-contradictory.

For that the Learned Commissioner of Income Tax (Appeals) was wrong in failing to strike down the order issued by the CPC wherein a disallowance

of Rs 1,43,26,742/- was made for a reason which was patently wrong and erroneous.

For that the appellant urges leave to add to, modify or withdraw any ground of appeal, before or at the time of hearing of the appeal.”

3. We will first take up the appeal for the A.Y. 202-21. The brief facts of the case of the assessee for A.Y. 2020-21 are that the assessee is a charitable organization involved in imparting of education and registered u/s 12A of the Act. For the impugned assessment year, it filed its return of income on the extended due date i.e. 15.02.2021. Out of the total receipts, a major amount was spent for the purpose of education and a sum of Rs. 1,69,833/- was accumulated for application to charitable purposes and, therefore, the entire receipts of Rs. 1,84,40,933/- were claimed as exempt u/s 11 of the Act. An intimation u/s 143(1) of the Act was issued raising a demand of Rs. 79,85,960/-. The order was erroneous in the opinion of the assessee as the revenue expenditure at page 20, the Annexure-Schedule ER computed by the CPC was claimed at Rs. 1,82,71,100/-, while the same was shown as NIL at Sl 04 in the computation provided at page 15 of the order. The assessee moved an application for rectification of the intimation on 08.09.2022 but the same was disposed off vide order dated 12.12.2022 and the mistake was left unamended. Aggrieved with the intimation order and rejection of the rectification application, the assessee moved an appeal before the Ld. CIT(A) who dismissed the same by holding as under:

“4.2 In this case, the appellant could have filed an appeal against the intimation u/s 143(1) as per the provisions of the Act. However, it appears that the appellant has not filed an appeal against the intimation u/s 143(1). Thereafter, the appellant has filed an application u/s 154 before the CPC which has been rejected and hence the appellant has filed the present appeal against the order u/s 154. In this regard, it is stated that the original cause of action in the present case had arisen at the stage of the proceedings



u/s 143(1) and not u/s 154. The appellant is trying to make a back door entry by filing an appeal against the order u/s 154, the original cause of action for which had arisen at an earlier point of time during the proceedings u/s 143(1). Therefore, as the original cause of action has arisen at the stage of 143(1), the issue cannot be adjudicated upon in the present appeal and further there is no mistake apparent from record at the stage of 154. Therefore, the grounds of appeal are dismissed.”

3.1. Aggrieved with the order of Ld. CIT(A), the assessee is in appeal before us. During the course of hearing before us, the Ld. AR drew our attention to paras 4, 4.1 & 4.2 of the Ld. CIT(A)'s order. It is submitted that the Ld. CIT(A) has not decided the appeal on merits of the case.

3.2. On the other hand, the Ld. DR relied upon the order of Ld. CIT(A).

4. We have heard the rival submissions and perused the documents placed before us. It was contended before us that the return of income was filed within the extended due dated on 15.02.2021 for A.Y. 2020-21 in which exemption u/s 11 of the Act was claimed which was not allowed. It was submitted that no notice for any defect in the return of income was received by the assessee nor the reasons for denial of exemption were mentioned in the intimation issued. The Ld. AR requested that the matter may be set aside to the Ld. CIT(A) for disposal of the appeal on merit. In the ITA No. 42/GTY/2024 it is stated that the reason provided in the order is contrary to the requirement of law as section 12A(1)(ac)/12AB inserted by the Finance Act, 2020 w.e.f. 01.06.2020 were withdrawn by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and were reintroduced by the same Act w.e.f. 01.04.2021. The new provisions required existing Trusts and institutions already registered to apply afresh under section 12A(1)(ac)(i) of the Act. The assessee is an existing institution registered u/s 12AA vide order dated 14.11.2014 issued by the CIT, Jorhat. The assessee applied for fresh registration on



31.03.2022 and it was granted in Form 10AC issued on 07.04.2022 to be effective for A.Y. 2022-23 to 2026-27.

4.1. The Ld. CIT(A) has not adjudicated the grounds raised by holding that the cause of action had arisen at the stage of intimation u/s 143(1) of the Act and the issue cannot be adjudicated upon in the present appeal. This finding of the Ld. CIT(A) is not correct as under Clause (a) of sub-section (1) of Section 246A of the Act, an intimation under sub-section (1) of Section 143 of the Act can be appealed against before the Ld. CIT(A), while under clause (c) thereof, an order made u/s 154 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee u/s 154 of the Act can also be appealed against. Thus, even though the assessee did not file an appeal against the intimation u/s 143(1) of the Act, since the rectification application was rejected, the Ld. CIT(A) was required to decide the appeal instead of dismissing the same as infructuous. The Ld. AO did not allow the claim of exemption u/s 11 of the Act in the intimation u/s 143(1) of the Act even though the assessee had claimed that it was an existing Society which was granted registration u/s 12A/AA/AB of the Act vide Registration No. OC-1467/12A/CIT/JRT/2014-15/3199-201 dated 14.11.2014 by the CIT, Jorhat. Due to change in the procedure of registration of the charitable institutions, it applied for fresh registration and was granted registration on Form No. 10AC by the Ld. CIT (Exemption) which was valid from AY 2021-22 to AY 2026-27. In the written submissions filed in the course of appeal for AY 2021-22 (which is a fact applicable for the A.Y. 2020-21 as well), the assessee has submitted as under relating to the ground of registration:

“1.4. Secondly Sir, the reason provided in the order as quoted here-in-above is quite contrary to the actual requirement of law. The fact of the matter is that section 12A(l)(ac)/ 12AB which were inserted by the Finance Act 2020 w.e.f. 1.6.2020 were withdrawn by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and were reintroduced by the same Act w.e.f. 1.4.2021.

1.5. The new provisions require existing trusts and institutions registered u/s 12A/ 12AA to apply afresh under sub-clause (i) of clause (ac) of sub-section (1) of Section 12A. As provided in that sub-clause, the application had to be filed within three months of the first day of April 2021. The last date of filing application under the amended provision was however extended from time to time till 30.09.23. Recently vide Circular No 7 of 2024, the due date of making fresh application was further extended upto 30.6.2024 (Copy attached at Annexure C).

1.6. The appellant assessee is an existing institution registered u/s 12AA vide order dated 14.11.2014 issued by the Commissioner of Income Tax, Jorhat (Copy of Approval attached at Annexure A). Hence, it was required to apply for and obtain fresh registration under the new provisions any time before extended due date. It is humbly pointed out that this due date (allowed for obtaining fresh registration) is beyond the due date of furnishing the return for current assessment year (2021-22) which was 15.03.2022.

1.7. The appellant assessee actually applied for fresh registration on 31.03.2022 and it was granted in Form 10AC issued under DIN AAAAL2268EE2013101 on 07.04.2022 to be effective for AY 2022-23 to 2026-27 (Copy of 10AC attached at Annexure B).”

4.2. It was also brought to our notice that the order u/s 143(1) of the Act has also been appealed against and a request was made that the issue in both the appeals may be set aside to the Ld. CIT(A) and the both the appeals may be clubbed together and decided by the Ld. CIT(A).

4.3. Since the assessee was an existing Trust and it applied for registration within time, there was no justification for not allowing the benefit of section 11 of the Act and the Ld. CIT(A) was not justified in dismissing the appeal as the cause of action had arisen in the intimation u/s 143(1) of the Act. Thus, on the facts of the case, we deem it proper to set aside the matter to the Ld. CIT(A) with the request that both the



appeals may be heard together for both the assessment years and the order may be passed at the earliest, preferably within a period of 4 months from the date of receipt of this order. The Ld. CIT(A) shall pass the order de novo after considering the submissions of the assessee and also after giving an opportunity of being heard to the Ld. AO as per rule 46A of the Income Tax Rules, 1962. The assessee shall not seek any unnecessary adjournment and shall make all submissions before the Ld. CIT(A).

5. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 20th January, 2025.

Sd/-

[Duvvuru RL Reddy]
Vice President (KZ)

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 20.01.2025

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Luit Academic Development Society, T R P Road, Nehru Park, Jorhat, Assam, 785001.**
- 2. ITO, W-2(3), Exem, Guwahati.**
- CIT(A)-NFAC, Delhi.
- CIT-
- CIT(DR), Guwahati Benches, Guwahati.
- Guard File.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata