

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.556/Nag./2024
(Assessment Year : 2022-23)

Sant Shankar Maharaj Ashram
1, Pimpalkutha, Dharmangaon
Amravati 444 905 PAN – AAHTS0026K

..... Appellant

v/s

Dy. Commissioner of Income Tax
Circle-Exemption, Nagpur

..... Respondent

Assessee by : Shri Mahavir Atal
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 23/01/2025

Date of Order – 28/01/2025

ORDER

PER K.M. ROY, A.M.

The aforesaid appeal by the assessee is emanating from the impugned order dated 03/10/2024, passed by the learned Commissioner of Income Tax (Appeals)-7, Kolkata, [*learned CIT(A)*], for the assessment year 2022-23.

2. In its appeal, the assessee has raised following grounds:-

"1. Whether on the facts and circumstances of the case, the learned First Appellate Authority was justified in affirming the rejection of the appellant's claim under section 11 for the inadvertent mistake of reporting the 12A registration number while filing a return of income.

2. Appellant craves leave to add or alter any other ground that may be taken at the time of hearing."

3. The factual matrix of the case is culled out from Par-1 and 2 of the impugned order passed by the learned CIT(A), which are reproduced below:-

"1. BRIEF FACTS OF THE CASE:- The appellant is Trust and derives income from business. The appellant filed return of income for the A.Y 2022-23 on 27.09.2022 declaring total income of Rs Nil. The CPC, Bangalore passed the Intimation u/s.143(1) dated 04.04.2023, making certain adjustments/raising tax payable. Being aggrieved with the above, the appellant is in appeal against the said order u/s 143(1) of the Act.

2. OBSERVATION OF CPC: The A.O. has made observation on this issue. Relevant portion of the same is reproduced as below:-

Particular	Provided by Taxpayer (Amount in ₹)	Computed by u/s 143(1) Amount (₹)
Profits and gains from business or profession	Nil	8,51,25,872/-

4. The learned Authorised Representative for the assessee submitted a paper book containing following documents.

Sr. no.	Name of document	Page no.
1.	Income Tax Return – A.Y. 2022–23	01 – 44
2.	Intimation order under section 143(1)	45 – 55
3.	Proposed Intimation under section 143(1)	56 – 59
4.	Order for provisional registration	60 – 60
5.	Form 10AC	61 – 62
6.	Provisional registration Certificate u/s 80G(5)(vi)	63 – 63

5. The reason for addition is as incorrect claim under section 143(1)(a)(ii) of the Act is reproduced from Paper Book Page–58 & 59:–

Para-A
Adjustments u/s 143(1)(a)

Sl. No.	Schedule	Error Description	In Income Tax Return	Amount in ₹ as computed	Variance
1.	Part–A General Information	The details provided at sr. no.A/9 of Schedule Part–A General are not matching	88894509	0	88894509

		with the information as per Form 10AC. Hence, the amount mentioned at sr. no.4 & 6(viii) of Part-B1 - Part B T1 is not allowable.			
2.	Part-B	In Schedule Part-B-T1 (Part B1), exemption / application claimed u/s 11 and 10(23C(iv), (v), (vi)(via) should not be more than Voluntary Contribution other than corpus. Aggregate of income and amount of corpus donation not eligible for exemption. Hence, exemption in excess of voluntary contribution other than corpus. Aggregate of income and amount of corpus donation not eligible for exemption i.e., sr. no.[1+3+5] of Part-B1 - Part B-T1 is not allowable.			

6. The written submissions of the assessee during first appellate proceedings reproduced in the impugned order of the learned CIT(A) is highlighted below:-

"1.7 sole reason for highlighting these extracts is that, your kindness may kindly observe that the appellant trust is provisionally registered u/s 12A of the Income Tax Act, 1961 vide dated order AAHTS0026KE20231. 01.06.2021 vide registration number

1.8 However, while filing the return of income the registration number u/s 12A which was reported was AAHTS0026KF2022101. An important fact which deserves to be appreciated at this stage is that this registration number which was reported in the return of income was in fact the Document Identification Number allotted to the trust u/s 80G of the Income Tax Act, 1961. An extract of the provisional registration u/s 80G which bears this DIN is reproduced below for your kind perusal.

1.9 The purpose of reproducing these extracts is that the trust, though was provisionally registered under u/s 12A with effect from 01.06.2021 and earlier to this date it was originally registered u/s 12AA vide registration number 20/05/2009-10, it was just because of a clerical error of reporting incorrect registration number u/s 12A (column A19 of Part A of the return of income), all this confusion was created and led to a disallowance of the entire exemption claimed u/s 11A. Moreover, though the proceedings are being conducted for the final registration and as soon as the appellant gets that order it shall be submitted before your kindness, the appellant trust was still duly registered as per the provisional registration allotted to it."

7. Just because there is a mismatch of the registration number, the entire demand has been raised. The learned CIT(A)'s order in dismissing the appeal as contained in Para-5.3 to 5.5 is extracted below:-

"5.3 From the plain readings of the provisions of section 143(1) and 143(3) it is evident that there is clear distinction vis-à-vis the powers of the assessing officer as well as the nature, procedure and conclusion drawn in framing the orders u/s 143(1) and 143(3). In 143(1), the jurisdiction / power of the assessing authority is restricted to the extent of making adjustments to returned income on the basis of facts and figures which are apparent, clear having no ambiguity or doubt, factually incorrect and difference in facts and figures reported in tax audit report and that in ITR. On the other hand in 143(3), the jurisdiction / power of the assessing officer is much wider in the sense that he can call for any document or books of account, clarification and explanation from the assessee, carry out independent enquiries against the assessee as well as third parties. After doing so he is required to pass a written and speaking order either accepting the returned income or making additions / disallowances to returned income.

5.4 It may therefore be stated that the power of the appellate authority in respect of appeals against Intimation u/s 143(1) is limited to examine and verify whether the assessing officer has followed the provisions as mentioned in various sub clauses of clause (a) and clauses (b) to (e) of section 143(1) while making adjustments to returned income. The appellate authority does

not have the jurisdiction to go into or examine the merit of the respective adjustments as to whether such adjustments are correct or not as per the various provisions of the Act. This is more so because, in 143(1), the details and evidences in respect of the relevant facts and figures are neither before the assessing officer nor before the appellate authority to go into and examine.

5.5 In the light of the limitations as discussed above as regard the adjudication of adjustments made to returned income u/s 143(1), I now give my opinion as under:-

In the present case, the appellant was required to fill up its ITR with correct facts and figures in the relevant columns. However, by its own admission, it committed mistake in filling the column related to registration u/s 12AA of the Act which is basic requirement for claiming exemption u/s 11 of the Act, which it had claimed in the ITR but denied by AO, CPC. Therefore AO, CPC was justified enough in rejecting appellant's claim as per section 143(1)(a)(ii) of the Act.

AO, CPC's action is therefore upheld and appellant's appeal dismissed."

8. The learned Authorised Representative for the assessee prayed that entire demand be quashed whereas the learned Departmental Representative prayed that provisions of section 154 of the Act should have been resorted to.

9. We are of the opinion that such inadvertent error in filling up reason cannot scuttle the gamut claim of the assessee. The learned CIT(A) has miserably failed to carry upon his duties and enerous responsibility causing miscarriage of justice. The entire addition of ₹ 8,51,25,872, is liable to be deleted.

10. In the result, appeal by the assessee is allowed.

Order pronounced in the open Court on 28/01/2025

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

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