

आयकर अपीलीय अधिकरण,'डी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.3030/Chny/2024
निर्धारण वर्ष /Assessment Year: 2015-16

Muslim Educational Society,
Jalal Building Thiruvithancode,
Kanyakumari,
Tamil Nadu-629174.
[PAN: AACTM7128D]

Income Tax Officer,
Vs. Exemption Ward,
Tirunelveli.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: Shri T.Vasudevan, Advocate

प्रत्यर्थी की ओर से /Revenue by

: Shri Eswaran, JCIT

सुनवाई की तारीख/Date of Hearing

: 22.01.2025

घोषणा की तारीख /Date of
Pronouncement

: 05.02.2025

आदेश / ORDER

PER AMITABH SHUKLA, A.M. :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2024-25/1069689973(1) dated 15.10.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2015-16. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 15.10.2024 passed by NFAC, Delhi.

2.0 At the outset, the Ld. Counsel for the assessee submitted that both the lower authorities the Ld.AO as well as Ld.CIT(A) has passed ex-parte orders in case of the assessee trust engaged in the activity of providing education. It was submitted that the only issue under consideration is an addition of Rs.1,02,48,544/- on account of deposits in assessee's bank account qua fees collection made by the Ld.AO. The Ld. Counsel for the assessee submitted that the Ld.First Appellate Authority has also confirmed the addition by passing an ex-parte order without giving sufficient opportunity of being heard. It was accordingly pleaded that in the interest of justice the matter may be restored back to the file of Ld.AO for readjudication. The Ld. DR would like to make us believe on the correctness of the order of lower authorities.

3.0 We have heard rival submissions in the light of material available on records. As per facts recorded by the Ld. AO in his order, he had given opportunities to the assessee for filing the required details which were not satisfactorily filed by the assessee leading to his making the impugned addition. We have however noted that the order passed by the Ld. AO is not a speaking order and clear facts have not been brought on records before making the impugned addition. There are also indications of no

enquiries conducted by the Ld.AO. Before the Ld.First Appellate Authority also the conduct of the assessee was far from satisfactory as far as compliance to statutory notices are concerned leading to dismissal of the appeal for want of adequate persecution by the assessee.

3.1 We have thus noted that inadequate submission of details and evidences, before the lower authorities qua sources of deposits in assessee's bank account lies at the core of the controversy. We are therefore of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and file all supporting evidences before the Ld.AO. The assessing officer is the primary authority under the income tax act to be examine facts of a case in the light of available evidences before determining correct taxable income of a tax payer. We therefore set aside the order of lower authorities on this issue and we direct the Ld. AO to readjudicate the matter de novo by examining the matter afresh in accordance with law and by passing a speaking order. Reliance in this regard is placed upon the decision of Hon'ble Apex Court in the case of TIN box 249 ITR 216. The Ld. AO shall give opportunities of being heard to the assessee and it shall be bounden upon the assessee to comply with the notices issued by the Ld. AO. Any non-compliance on the

part of the assessee can be adversely viewed. Accordingly, all the grounds of appeal raised by the assessee on this issue are allowed for statistical purposes.

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

Order pronounced on 5th, February-2025 at Chennai.

Sd/-
(जॉर्ज जॉर्ज के)
(GEORGE GEORGE K)
उपाध्यक्ष / Vice President

Sd/-
(श्री अमिताभ शुक्ला)
(AMITABH SHUKLA)
लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 5th, February-2025.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF