

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 2306/KOL/2024
Assessment Year: 2017-2018**

**Daya Saroop Usha Bhalla Welfare
Foundation Trust,.....Appellant
45, Park Street, Kolkata-700016
[PAN:AABTD7252Q]**

-Vs.-

**Income Tax Officer,.....Respondent
Ward-1(2), Exemption, Kolkata,
10B, Sur William Jones Sarani,
Middleton Row, Park Street Area,
Kolkata-700071**

Appearances by:

*Shri Anil Kochar, Advocate, appeared on behalf of the
assessee*

*Ms. Madhumita Das, Addl. CIT, appeared on behalf of
the Revenue*

Date of concluding the hearing: January 09, 2025

Date of pronouncing the order: February 13, 2025

O R D E R

The present appeal is directed at the instance of assessee against the order of ld. Addl./JCIT(Appeals), Bhubaneswar dated 19th September, 2024 passed for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is a Charitable Trust, who filed his return of income on 31.03.2018 declaring total income at 'NIL'. The return was processed under section 143(1) of the Act determining taxable income at Rs.11,43,658/- by disallowing deduction under section 11 of the Act. The tax liability was computed at Rs.1,09,616/-. The ITR was processed by Centralizing Processing Centre, Bangalore (CPC) without allowing deduction claimed under section 11 of the Act. Later on, the appellant filed petition under section 154 of the Act seeking rectification of mistake, which was also rejected. Being aggrieved, the appellant preferred appeal urging for reversal of the order of CPC.

3. The ld. Addl. /JCIT(Appeals) has given several opportunities to the assessee to substantiate its claim. The appellant was asked to provide supporting documents from which it could have been concluded that it was eligible for deduction under section 11 of the Act for A.Y. 2017-18. Mere claiming in the ITR that income has been applied for the object of the Trust is not enough to hold genuineness of the claim but the appellant did not file the written submissions. Thereafter the ld. Addl./JCIT(Appeals) dismissed the appeal on 19th September, 2024.

4. On being aggrieved, the assessee preferred an appeal before the ITAT.

5. At the time of hearing, it was the submission of the ld. Counsel for the assessee that ld. Addl./JCIT(Appeals) did not

consider the case on merit, rather he just upheld the order passed by the ld. Assessing Officer. Therefore, he pleaded to delete the addition made by the ld. Assessing Officer as confirmed by the ld. Addl./JCIT(Appeals).

6. At the outset, ld. D.R. brought to my notice that the assessee did not produce the relevant documents as asked by the ld. Assessing Officer during the assessment proceedings. Therefore, the ld. Assessing Officer passed the assessment order assessing the taxable income at Rs.11,43,658/-which exceeds income or gross receipts of Rs.10,34,042/- by Rs.1,09,616/-. Thereafter the assessee preferred an appeal before the ld. CIT(Appeals). The ld. Addl./JCIT(Appeals) has given many opportunities to the assessee and the assessee neither filed written submission nor any evidence before the ld. Addl./JCIT(Appeals). He further submitted that before the ITAT, the assessee did not substantiate its claim. Therefore, he pleaded to uphold the orders passed by the revenue authorities.

7. I have heard the rival submissions and perused the material available on record. The assessee also filed additional documents before the Tribunal. The only contention of the ld. Addl./JCIT(Appeals) that the assessee has not provided any documents in support of its claim even after issuance of notices on three occasions. Therefore, ld. Addl./JCIT(Appeals) decided these issues on merit. However, before me, the assessee filed some documents. Considering the facts and circumstances of the case, I am inclined to set aside the order passed by the ld. CIT(Appeals)

in order to meet the principle of natural justice, and remit the matter back to the file of Id. CIT(Appeals) with a direction to provide one more opportunity of being heard to the assessee. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the Ld. CIT(Appeals) failing which the Ld. CIT(Appeals) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on the record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 13/02/2025.

Sd/-
(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 13th day of February, 2025

*Copies to :(1) Daya Saroop Usha Bhalla Welfare
Foundation Trust,
45, Park Street, Kolkata-700016*

*(2) Income Tax Officer,
Ward-1(2), Exemption, Kolkata,
10B, Sur William Jones Sarani,
Middleton Row, Park Street Area,
Kolkata-700071*

(3) Addl./JCIT(Appeals), Bhubaneswar;

- (4) CIT - ;
- (5) *The Departmental Representative;*
- (6) *Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.