

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

**Before Shri Duvvuru RL Reddy, Vice-President (KZ)
&
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No. 1268/KOL/2023
Assessment Year: 2012-2013**

***Gopsai Avinandan Sangha,.....Appellant
C/o. S.N. Ghosh & Associates, Advocates,
2, Garstin Place,
2nd Floor, Suite No. 203, Off. Hare Street,
Kolkata-700001
[PAN:AAATG8930F]***

-Vs.-

***Income Tax Officer (Exemption),.....Respondent
Ward-1(1), Kolkata,
Income Tax Office, Middleton Row,
10B, Sir William Jones Sarani, 5th Floor,
Kolkata-700071***

Appearances by:

*Shri Somnath Ghosh, Advocate, appeared on behalf of the
assessee*

N o n e, appeared on behalf of the Revenue

Date of concluding the hearing: January 7, 2025

Date of pronouncing the order: February 26, 2025

O R D E R

Per Duvvuru RL Reddy, Vice-President (KZ):-

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 26th September, 2023 passed for Assessment Year 2012-13.

2. None appeared on behalf of the Revenue at the time of hearing. Therefore, we have decided to dispose of the appeal after hearing the ld. Counsel for the assessee and on the basis of material available on record.

3. Brief facts of the case are that the assessee is a registered Cooperative Society and is running an Educational Institution and assessed as an AOP. The assessment of income of the appellant under section 143(3) was completed on 27.03.2015 and the total income assessed was Rs.1,77,46,310/-. The assessment under section 143(3) dated 27.03.2015 was revised under section 263 by the ld. CIT (Exemption), Kolkata directing the ld. Assessing Officer to compute the income without allowing exemption under section 11 of the Income Tax Act, 1961 on 09.03.2017. Pursuant to the order under section 263 dated 09.03.2017, the ld. Assessing Officer passed the assessment order under section 143(3)/263 dated 06.09.2017 by making addition of Rs.86,18,353/- disallowing exemption under section 11 being accumulation of income for charitable purpose to the extent not exceeding 15% of the income. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

4. The ld. CIT(Appeals) has given several opportunities to the assessee to substantiate its claim, but the appellant did not file the written submissions and did not represent the case before the ld. CIT(Appeals). Thereafter the ld. CIT(Appeals) dismissed the appeal ex-parte on 26th September, 2023.

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

6. At the time of hearing, it was the submission of the ld. Counsel for the assessee that ld. CIT(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. CIT(Appeals).

7. We have heard the rival submissions and perused the material available on record. Considering the facts and circumstances of the case, we are 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 ld. CIT(Appeals) with a direction to provide one more opportunity of being heard to the assessee. At the same breath, we 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 26/02/2025.

Sd/-
(Rakesh Mishra)
Accountant Member

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

Kolkata, the 26th day of February, 2025

*Copies to :(1) Gopsai Avinandan Sangha,
C/o. S.N. Ghosh & Associates, Advocates,
2, Garstin Place,
2nd Floor, Suite No. 203, Off. Hare Street,
Kolkata-700001*

*(2) Income Tax Officer (Exemption),
Ward-1(1), Kolkata,
Income Tax Office, Middleton Row,
10B, Sir William Jones Sarani, 5th Floor,
Kolkata-700071*

(3) CIT(Appeals), NFAC, Delhi;

(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.