

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT
MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER

ITA No. 340/Ind/2024
Assessment Year: 2017-18

Science Forum for Rural Development & Research, Takshshila Junior College, Gram Mindia, Sanver Road, Post Navakheda, Ujjain	<u>बनाम/</u> Vs.	CIT(A), NFAC, Delhi
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AAQFS8142R		
Assessee by	Ms. Ruchira Nerkar, AR	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	12.03.2025	
Date of Pronouncement	17.03.2025	

आदेश / O R D E R

Per Paresh M Joshi, J.M.:

This is an appeal filed by the Assessee Under Section 253 of the Income Tax Act, 1961 (hereinafter referred to as the Act for brevity) as and by way of Second appeal before this Tribunal. The assessee is aggrieved by order bearing Number ITBA/NFAC/S/250/2023-24/10555992967(1) dated 12.09.2023 passed by Ld.

CIT(A), passed U/s 250 of the Act which is hereinafter referred to as the "impugned order". The relevant Assessment Year is 2017-18 and the corresponding previous year period is from 01.04.2016 to 31.03.2017.

At the outset registry has pointed out delay of 62 days. The Ld. AR for and on behalf of the assessee has taken us through condonation of delay application which is supported by affidavit in support of condonation of delay application. The Ld. AR inter alia has contended before us that assessee's net-worth is poor/bad since some time now. There are now no students. In fact, they have applied for closure of institute. There are many administrative issues and also financial difficulties. There is liquidity crunch. No tuition fees are received. These contentions were raised basis documents i.e. balance sheets dated 31.03.2023 & 31.03.2024.

Per contra Ld. DR has opposed condonation of delay but has not been successfully able to label the same basis documents. In view thereof, we condone the delay for which

assessee has shown bonafide and reasonable cause. Delay condoned. Matter admitted and taken up for hearing.

2. **FACTUAL MATRIX**

2.1 That an information was received in respect of assessee through AIMs module of TBA that the assessee during the period of demonetization from 09.11.2016 to 30.12.2016 had made cash deposits amounting to Rs.42,70,836/- in the bank accounts maintained by it.

2.2 That notices U/s 142(1) dated 14.12.2017 was issued and served to the assessee through e-mail requesting the assessee to file return of income for Assessment Year 2017-18 on or before 13.01.2018. The assessee failed to comply with the notice issued u/s 142(1) of the Act.

2.3 That information was also requisitioned from the Bank. As per bank statement which was received from the concerned bank during the demonetization period the assessee has made cash deposit amounting to Rs.42,70,836/- in the bank account maintained by the assessee. Further during the entire financial

year the assessee has made cash deposits of Rs.1,74,10,356/- in its bank accounts.

2.4 That the assessee was asked to furnish the supporting documentary evidence regarding source of cash deposits made by the assessee during demonetization period and for the entire year under consideration.

2.5 That the assessee submitted that the society is engaged in educational activities and is running school in the name and style of "Takshshila Junior College". That all the cash receipts are on account of fees received from the students. That the assessee is also registered U/s 12A of the Act and is also registered U/s 10(23C)(vi) of the Act.

2.6 The contentions raised by the assessee have been examined from the records of the assessee and are found to be correct. The assessee is engaged in educational activities and source of cash deposits in bank accounts is form received from students only.

2.7 For the year under consideration the assessee has shown excess of Income over Expenditure of Rs. 15.797/-. Further the

excess of Income over expenditure Takshshila Junior College is Rs. 14,69,899/- The total excess of Income Expenditure is Rs. 14,85,696/-. The assessee is registered u/s 12A of the Tax act and is also registered under section 10(23C)(vi). The assessee was liable to furnish the Return of income to claim exemption under these sections. The benefit of exemption cannot be given unless it is claimed by the assessee. For the year under consideration the assessee has not filed the Return of Income. To arrive excess of income over expenditure the assessee has claimed depreciation of Rs. 21,163/- and Rs 6,78,616/- respectively. For the assets prior to 01.04.2016 the assessee has been claiming capital expenditure as application of Income. Therefore depreciation is allowable as revenue expenditure only for the assets added during the year under consideration. Accordingly depreciation of Rs. 11,748/-(15% of 54,542+7.5% of 46,100+ 5% of 2,175) is allowed out of total depreciation of Rs. 7,00,785/- claimed by the assessee. Accordingly depreciation claim of Rs. 6,89,037/- is disallowed while computing excess of Income over Expenditure.

Excess of income Over Expenditure as per I&E A/c	14,85,696/-
Disallowance of Depreciation	6,89,037/-
Assessed Income	21,74,733/-

2.8 That in view of the aforesaid income of the assessee for the year under consideration is assessed at Rs.21,74,733/- U/s 144 r.w.s. 142(1) of the Act.

2.9 That the aforesaid order of Ld. A.O bears No.ITBA/AST/S/144/2019-70/1023240276(1) and is dated 27.12.2019 which is hereinafter referred to as the "impugned assessment order".

2.10 That the assessee being aggrieved by the "impugned assessment order" prefers first appeal before Ld. CIT(A) in terms of Section 246A of the Act who by "impugned order" has dismissed the appeal of the assessee.

2.11 That the assessee being aggrieved by the "impugned order" has filed present second appeal in terms of Section 253 of the Act before this Tribunal and has raised following grounds of appeal

against the impugned order in Form No.36 before this Tribunal which are as under:-

"1. That the Ld. CIT(A) erred in diminishing the appeal without appreciating the facts, papers, replies submitted before him.

2. The Appellant craves leave to add/alter any of the grounds of appeal before him or at the time of hearing".

3. Record of Hearing

3.1 The hearing in the appeal took place before this Tribunal on 12.03.2025 when Ld. AR for and on behalf of the assessee interalia contended that the "impugned order" is illegal, bad in law and not proper. It should be set aside by this Tribunal in exercise of its appellate jurisdiction. It was also contended that the impugned order is passed in violation of the principles of natural justice. The Ld. AR contended that due to lot many difficulties faced by the assessee who is in the field of education they could not furnish all the material details to Ld. CIT(A) and prayed that if one last and final opportunity to them is granted they would furnish all their submissions along with documents before Ld. CIT(A) and thus sought remand of the case back to the file of Ld. CIT(A). Per contra Ld. DR for and on behalf of the

Revenue fairly conceded that the impugned order and impugned assessment order are ex-parte in nature and have left it to this Tribunal to take appropriate decision in accordance with law.

4. Observations & findings & conclusions

4.1 We now have to decide the legality, validity and propriety of the "impugned order" basis records of the case.

4.2 We carefully perused the records of the case.

4.3 We on the basis of records of the case and after hearing and examining the rival contentions are of the considered opinion that it would be just fair and convenient to set aside the impugned order back to the file of Ld. CIT(A) to enable the Ld. CIT(A) to give one more final and last opportunity to assessee to present its case on merits. This Tribunal desires meritorious disposal of appeal after party/assessee is given full and complete opportunity.

5. Order

5.1 In the premises drawn by us, we set aside the impugned order and remand the case back to the file of Ld. CIT(A) to pass a fresh order after giving one last opportunity to assessee. Assessee is directed not to seek adjournment. Ld. CIT(A) to pass a speaking order as expeditiously as possible on Denova basis.

5.2 In result appeal of assessee is allowed for statistical purpose.

Order pronounced in open court on 17.03.2025.

Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

Sd/-

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

दिनांक /Dated : 17/03/2025

Dev/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore