

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SMT BEENA PILLAI, JUDICIAL MEMBER
ITA No.5087/M/2024
Assessment Year: 2014-15

| | | |
|---|-----|--|
| The Market Research Society of India 5D/5E Siddhivinayak Chambers, Opp. MIG Club, Kalanagar Bandra (East), Mumbai- 400052. PAN: AAATT3876F | Vs. | ITO- Exemption Ward 2(4) 6 th Floor, MTNL Building, Cumbala Hills, Peddar Road, Mumbai- 400026. |
| Appellant | : | Respondent |

Present for:

Assessee by

: Shri. Dinesh Kukreja

Revenue by

: Ms. Pradnya Gholap (Sr. DR)

Date of Hearing

: 04.12.2024

Date of Pronouncement

: 30.12.2024

ORDER

Per Beena Pillai, JM:

Present appeal arises out of order dated 30-07-2024 passed by Ld.CIT(A)-4, Kolkata for assessment year 2014-15 on following grounds of appeal:

1. *“On the facts and circumstances of the case and in law, the Id. Assessing Officer as well as the Id. CIT(A) erred in making an addition of Rs.19,73,267/- to the income of the Appellant and raising a demand of Rs.1,83,380/- on the Appellant.*
2. *On the facts and circumstances of the case and in law, the Id. Assessing Officer as well as the Id. CIT(A) erred in ignoring the objects of the Trust and contemplating the activities of the Appellant to not be charitable under "education" as defined in section 2(15) of the Act.*
3. *On the facts and circumstances of the case and in law, the Id. Assessing Officer as well as the Id. CIT(A) erred in ignoring the*

fact that the activities of the Trust would even otherwise constitute "other objects of general public utility" and the proviso to section 2(15) of the Act would not be applicable since the alleged other receipts, even if constituted as trade, commerce or business, did not exceed Rs.25 lacs and hence the Trust could be eligible for exemption u/s 11 even as Trust having objects of General Public Utility.

4. On the facts and circumstances of the case and in law, the Id. Assessing Officer as well as the Id. CIT(A) erred in invoking the principles of mutuality to be held inapplicable to income earned from non-mutual sources being fees from non-members and interest income earned by the Appellant.
5. On the facts and circumstances of the case and in law, the Id. CIT(A) erred in ignoring the adjournments sought and pled by the Appellant in response to the hearing Notices issued by him, and contending that no adjournment is sought by the Appellant.
6. On the facts and circumstances of the case and in law, the Id. CIT(A) erred in holding the Appellant intransigent and non-compliant by not filing explanations or documents in response to the said hearing notices, ignoring the fact that the Appellant had already responded to the hearing notices in form of an adjournment to the said hearings.
7. On the facts and circumstances of the case and in law, the Id. Assessing Officer as well as the Id. CIT(A) erred in levying interest u/s 234B and 234C of the Act.
8. On the facts and circumstances of the case and in law, the Id. Assessing Officer as well as the Id. CIT(A) erred in initiating penalty proceedings against the Appellant u/s 274 r.w.s 271(1)(c) of the Act.
9. The Appellant craves leave to add to or alter, by deletion, substitution or otherwise, any or all of the foregoing grounds of appeal at or before the hearing, and to submit such statements, documents, and papers as may be considered necessary either at or before the hearing for the present appeal."

Brief facts of the case are as under:

2. At the outset the Ld.AR submitted that, the assessee could not appear before the first appellate authority and only two notices were issued to the assessee. He submitted that, the first notice was issued on 01/07/2024 against which assessee sought adjournment

thorough e-filing portal as the authorised representative was over burden with the return filing sessions ending on 31/07/24.

2.1. It is submitted that subsequently the Ld.CIT(A) issued another notice on 22/07/24 fixing the date of hearing on 29/07/24. The authorised representative was still not able to attend the hearing or make any submissions due to the time barring date for filing the return on was 31/07/24. It is submitted that without considering the genuine hardship faced by the assessee ex-parte order was passed by the Ld.CIT(A).

2.2. The Ld.AR thus prayed for appeal to be decided on merits by the Ld.CIT(A).

2.3. On the contrary, the Ld.CIT(A).DR placed reliance on the orders passed by the authorities below.

I have perused the submissions based on the records placed before me. It is noted that no effective hearing was provided to the assessee even though assessee had sought adjournment expressing the genuine reasons.

Accordingly. I remand the appeal back to the Ld.CIT(A) to consider the issue having regard to the evidences filed by the assessee. The Ld.CIT(A) is directed to pass a detailed order on merits by granting proper opportunity of being heard to the assessee in accordance with law.

Accordingly the grounds raised by the assessee stands partly allowed for statistical purpose.



In the result the appeal filed by the assessee stands partly allowed for statistical purpose.

Order pronounced in the open court on 30-12-2024.

**Sd/-
BEENA PILLAI
JUDICIAL MEMBER**

Place: Mumbai,

Dated: 30.12.2024

Snehal C. Ayare, Stenographer

Copy of the order forwarded to :

1. The Appellant
2. The Respondent
3. Ld.DR, ITAT, Mumbai
4. Guard File
5. CIT

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai