

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Hybrid Court Hearing]**

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

**I.T.A. No. 405/PAT/2024
Assessment Year: 2016-2017**

***Pioneer Education Society,.....Appellant
C-310/311, Unitech Business Zone
Nirvana Country, South City-II,
Sector-50, Haryana, Pin Code No.122018
[PAN:AADAP0174C]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-1(1), Patna,
Lok Nayak Jai Prakash Bhawan,
New Dak Bunglow, Patna-800001,
Bihar***

Appearances by:

Shri Yatin Sharma, Advocate, appeared on behalf of the assessee

Rinku Singh, CIT (DR), appeared on behalf of the Revenue

Date of concluding the hearing: April 21, 2025

Date of pronouncing the order: April 24, 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 ld. Commissioner of Income Tax (Appeals),

National Faceless Appeal Centre (NFAC), Delhi dated 15th March, 2024 passed for the assessment year 2016-17.

2. Brief facts of the case are that the assessee is a Society registered under Madhya Pradesh Society Registration Act, 1973. The assessee-Society filed its return of income electronically on 05.08.2016 showing total loss of Rs.5,69,03,769/-. The assessee-Society was running three schools, i.e. GEMS Public School in different places situated at Bhopal, Gwalior and Indore. The case of the assessee was selected for complete scrutiny through CASS for the reasons, i.e. (i) whether deduction claimed on account of business expenses is admissible or not and (ii) whether sundry creditors are genuine or not. Statutory notice under section 143(2) of the Income Tax Act was issued to the assessee but there was no compliance by the assessee. Further notice under section 142(1) of the Act along with questionnaire, digitally signed, was issued to the assessee, but no compliance was made by the assessee to the above statutory notices. Again, notice under section 142(1) was issued and getting no compliance from the side of assessee, penalty notice under section 271(1)(b) was issued to the assessee on 30.11.2018 requiring compliance on 05.12.2018. Again, letter under section 133(6) was issued to the Branch Manager, Axis Bank, Valachery Branch, Chennai seeking copy of all bank statements of the assessee. Copy of Bank statements received from the Branch and from where it was noticed that the assessee society had undergone various transactions with Everonn School Ltd. and M/s. Lingamaneni Education Trust. The assessee company had paid interest-free unsecured loan of

Rs.6,58,04,004/- during FY 2015-16. The company furnished copy of ITR, copy of audit report, confirmation and bank statement in this regard. The assessee has shown unsecured loan amount of Rs.6,47,49,004/- only from GEMS, therefore, the difference of Rs.10,55,000/- (Rs.6,58,04,004/- minus Rs.6,47,49,004/-) which was not shown as unsecured loan from GEMS, was added to the total income of the assessee. The ESL not responded to the notice issued under section 133(6) on 04.12.2018, therefore, the unsecured loan against the name of ESL as appearing in the books of account of the assessee during the year amounting to Rs.3,97,35,320/- was treated as unexplained cash credits under section 68 of the Act and added to the total income of the assessee. Therefore, the total addition comes to Rs.4,07,90,320/- (Rs.10,55,000/- plus Rs.3,97,35,320/-).

2.1. In support of rent debited in the income & expenditure account to the tune of Rs.3,43,84,722/-, the assessee furnished copy of three Memorandum of Understandings and one lease agreement. As the assessee furnished copy of bills in support of rent and equipment hire charges, the total rent paid as per bills comes to Rs.49,76,115/-. Therefore, difference of Rs.2,94,08,607/- (Rs.3,43,84,722/- minus Rs.49,76,115/-) was treated as unexplained rent and added to the total income of the assessee.

2.2. In respect of salaries and wages, the assessee has debited a sum of Rs.1,28,07,300/-. In support thereof, the assessee furnished attendance register of teaching and non-teaching staff,

salary ledger, TDS on salary ledger for FY 2015-16 and TDS on salary Apr. 16 ledger. But no details of salary paid in respect of all three schools, viz. names of the teaching and non-teaching staff, gross salary paid, mode of payment, TDS thereon etc. Therefore, 50% of the salary and wages, comes to Rs.64,03,650/- was treated by the ld. Assessing Officer as unexplained money and added to the total income of the assessee.

2.3. With respect to advertisement, the assessee has debited a sum of Rs.81,81,903/- on account of advertisement expenses during the year. The total bills in respect of advertisement comes to Rs.33,49,987/-, therefore, the difference of Rs.48,31,916/- (Rs.81,81,903/- minus Rs.33,49,987/-) was held as unexplained expenses by the ld. Assessing Officer and added to the total income of the assessee.

2.4. In respect of professional and consultancy fees, the assessee debited a sum of Rs.11,03,726/- under this head. The assessee failed to produce the supporting ledger, details of recipients, supporting bills and mode of payment, etc. Therefore, 50% of the expenses claimed by the assessee under this head, which comes to Rs.5,51,863/- was treated as unexplained expenses and added to the total income of the assessee.

2.5. In respect of office maintenance and security expenses, the assessee debited a sum of Rs.48,52,428/- under this head. The assessee furnished only ledger of Balaji Security Services Pvt. Ltd. only for Rs.3,33,544/- in respect of Gwalior and Rs.6,01,415/- in

respect of Bhopal. Therefore, the total expenses of Rs.9,34,959/- was held by the ld. Assessing Officer as eligible security expenses.

2.6. In respect of Office maintenance expenses, the assessee furnished two bills for Amar Radio & Electric Co. Rs.26,000/-, two bills for Rs.1,13,958/- in respect of Capri Hospitality Services Pvt. Ltd., seven bills for Rs.6,85,473/- in respect of SEPS, two bills for Rs. 86,082/- in respect of Gupta House Keeping Services Pvt. Ltd. and six bills for Rs.4,45,674/- in respect of Girraj Sharma Housekeeping & Cleaning. Therefore, the sum of Rs.13,57,187/- only is supported with copy of bills in respect of office maintenance expenses. Hence the sum of Rs.22,92,146/- (Rs.9,34,959/- plus Rs.13,57,187/-) was treated as explained and difference of Rs.25,60,282/- (Rs.48,52,428/- minus Rs.22,92,146/-) was treated as unexplained expenses and added to the total income of the assessee.

2.7. The assessee has furnished the list of one bank account with Axis Bank in the ITR as well as in scrutiny proceedings. As per information received from the bank under section 133(6), two accounts were held by the assessee with the Axis Bank. The addition on account of ESL as unexplained cash credits under section 68 has been done, therefore, credit entries in respect of ESL appearing in this account was ignored. As the Bank account maintained with Axis Bank bearing A/c. No. 915020046778265 has not been disclosed, the sum of Rs.12,40,000/- was held as unexplained money under section 69 and added to the total income of the assessee.

Therefore, The ld. Assessing Officer passed the order under section 143(3) of the Income Tax Act on 30.12.2018 assessing the total income at Rs.2,88,82,869/-.

3. 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 neither filed the written submission nor represented the case before the ld. CIT(Appeals). Thereafter the ld. CIT(Appeals) dismissed the appeal *ex-parte* on 15th March, 2024.

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

6. At the time of hearing, ld. Counsel for the assessee argued before the Bench that the impugned order be set aside and remitted back to the file of ld. CIT(Appeals) for deciding it afresh.

7. At the outset, ld. D.R. brought to our 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 total income at Rs.2,88,82,869/-. Thereafter the assessee preferred an appeal before the ld. CIT(Appeals). The ld. CIT(Appeals) dismissed the appeal *ex-parte*. Therefore, he pleaded to uphold the order passed by the ld. CIT(Appeals).

8. We have heard the rival contentions 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 Id. 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, 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.

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

Order pronounced in the open Court on 24/04/2025.

Sd/-
(Sanjay Awasthi)
Accountant Member

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

Kolkata, the 24th day of April, 2025

*Copies to :(1) Pioneer Education Society,
C-310/311, Unitech Business Zone
Nirvana Country, South City-II,
Sector-50, Haryana, Pin Code No.122018*

*(2) Income Tax Officer,
Ward-1(1), Patna,
Lok Nayak Jai Prakash Bhawan,
New Dak Bunglow, Patna-800001, Bihar*

- (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.