

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

ITA No.821/Ind/2024
(AY: 2018-19)

Sir Syed Educational & Social Welfare Society, 867, Ankur Complex, HB Colony, Koh E Fiza, Bhopal (Assessee/Appellant)	<u>बनाम/</u> Vs.	Assessment Unit, Income Tax Department, Delhi (Revenue/Respondent)
PAN: AACTS0888E		
Assessee by	Shri S.S. Deshpande, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	23.04.2025	
Date of Pronouncement	24.04.2025	

आदेश / ORDER

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first appeal dated 25.09.2024 passed by learned Commissioner of Income-Tax (Appeals, National Faceless Appeal Centre (NFAC), Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 13.03.2023 passed by learned Assessment Unit of Income-tax Department ["AO"] u/s 147 r.w.s 144 and 144B of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2018-19, the assessee has filed this appeal on following grounds:

"1. That on the facts and in the circumstances of the case of the assessee, the CIT(A) was not justified in passing the order stating that the assessee in routine ask for adjournment and it has not prosecuted the appeal.

2. That on the facts and in the circumstances of the case of the assessee, the CIT(A) was not justified in passing the appeal order without providing the assessee an opportunity of being heard, thereby dismissing the appeal.

3. The assessee craves leave to add, alter amend or withdraw any ground of appeal on or before the time of hearing."

2. Ld. AR for assessee carried us to the following paras of impugned order wherein the CIT(A) has noted the facts of case as well as his adjudication as under:

"7.1 The appellant is a society registered under the society act. The AO was in possession of information that the appellant had unexplained income to the tune of Rs. 1,70,44,215/- in the form of time deposit of Rs. 1,60,00,000/-, Rent receipt on plant & machinery of Rs. 4,80,000/- and Rent receipt on securities of Rs. 5,64,215/-during F.Y. 2017-18 relevant to A.Y. 2018-19. On the basis of this information, proceedings u/s 148A were initiated and the appellant was given an opportunity vide show-cause notice u/s 148A(b). Thereafter, on due consideration of materials available on record, the assessing officer concluded that the appellant's income for the AY 2018-19 has escaped assessment and initiated the proceedings u/s 147. Accordingly notice u/s 148 has been issued and served to the appellant. The appellant did not respond to these notices. The AO issued notices u/s 142(1) of the act for which there was no response from the appellant. The show cause notice issued by the AO was also not responded. The AO concluded the assessment u/s 144 of the act by adding Rs. 1,70,44,215/- as unexplained money within the meaning of section 69A of the Act.

7.2 Notices u/s 250 were issued several times as under:

S.No.	Date of notice	Due date	Mail Delivery status	Response
1.	19.07.2024	29.07.2024	Delivered	Nil
2.	31.07.2024	09.08.2024	Delivered	Nil
3.	09.08.2024	19.08.2024	Delivered	Adjournment request filed on 02.09.2024
4.	10.09.2024	25.09.2024	Delivered	Adjournment request filed on 24.09.2024

The appellant asked for adjournment routinely and it has not prosecuted the appeal by producing necessary documentary evidence in support its claim.

The AO has reopened the case after following the due procedure laid in the provisions of section 148A/148 of the income tax act. The appellant did not file the return of income in response to notice u/s 148 of the act and did not file the details called for by the AO through notices u/s 142(1) of the act. In view of these facts and circumstances, the ground against the reopening of the case is dismissed.

Though there were huge time deposits to the extent of Rs. 1,60,00,000, the appellant did not come forward to explain the nature and sources of such deposit either before the AO or before me. Similarly, though there were Rental receipt on plant & machinery of Rs. 4,80,000/- and Rent receipt on securities of Rs 5,64,215/- during F.Y. 2017-18 relevant to A.Y. 2018-19, no details were filed by the appellant even during the appellate proceedings. The appellant did not produce any documentary evidence towards the claim of exemption u/s 10(23C) and 12AA of the income tax act before me. Hence, I am constrained to uphold the additions made by the AO and dismiss all the grounds raised in this appeal.

8. In result, the appeal is dismissed."

3. Reading Para 7.2 of impugned order as re-produced above in open court, Ld. AR for assessee submitted that the CIT(A) has fixed hearings during a short span of time-period on 29.07.2024, 09.08.2024, 19.08.2024 and 25.09.2024 and the assessee has filed adjournment requests on last two dates of hearing but the CIT(A) has dismissed assessee's first appeal on the premise of non-prosecution, which is against the provision of section 250(3) authorizing the assessee to seek adjournments, the settled judicial system and the principal of natural justice. Ld. AR further submits that the assessee is ready and willing to make representation before CIT(A) if an opportunity is given and prays that the present matter should be remanded to the file of CIT(A) for a proper adjudication of the grounds/issues raised by assessee in first-appeal.

4. Ld. DR for revenue agrees with the prayer of Ld. AR but makes a limited request to direct the assessee to represent his case before CIT(A) and do not seek unnecessary adjournments.

5. Considering above submissions and also having regard to the principle of natural justice and fair play, we deem it fit to remand this matter back to the file of CIT(A) for adjudication afresh, at the risk and responsibility of assessee. The CIT(A) shall give necessary opportunity of hearing to assessee and pass an appropriate order uninfluenced by his earlier order. The assessee is also directed to ensure participation in the hearings as may be fixed by CIT(A) and do not seek unnecessary adjournments failing which the CIT(A) shall be at liberty to pass appropriate order in accordance with law. Ordered accordingly.

6. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 24/04/2025
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Sd/-
(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 24/04/2025

Patel/Sr. PS

Sir Syed Educational & Social Welfare Society
ITA No. 821/Ind/2024

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

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore