



आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.669/PUN/2025
निर्धारण वर्ष / Assessment Year: 2015-16

A K Rural Development Trust, Beni Budruk, Lanja, Ratnagiri – 415701. Maharashtra.	V s	The Income Tax Officer, Exemption Ward, Kolhapur.
PAN: AACTA2810J		
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Pramod S Shingte - AR
Revenue by	Shri Ratnakar Shelake – Addl.JCIT(DR)
Date of hearing	29/04/2025
Date of pronouncement	29/04/2025

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This appeal filed by the assessee is against the order of ld.Addl.Joint Commissioner of Income Tax(Appeals), Prayagraj passed under section 250 of the Income Tax Act, 1961, dated 25.02.2025 for Assessment Year 2015-16. The Assessee has raised the following Grounds of Appeal :

“1. On the facts and circumstances of the case and in law the Addl.CIT(A) erred in not considering the submissions of the appellant



and confirming the action of the Income Tax Officer, CPC, Bengaluru (hereinafter referred to as the 'AO) of:

Disallowing exemption under S. 11 apparently for non-filing of Form 10B.

Bringing to tax entire gross receipts as against Net Commercial Income of the appellant.

The appellant prays that the AO be directed accordingly in the matter.

The appellant craves leave to add to, amend, alter, modify, delete or add a new ground of appeal before or at the time of hearing.”

Submission of Id.AR :

2. Ld.AR for the Assessee filed a paper book. At the outset, Id.AR that Id.CIT(A) has not adjudicated the Ground No.1(b) raised by the Assessee. In this case, assessee is a Charitable Trust duly registered u/s.12AA of the Act. Assessee had filed Return of Income for A.Y.2015-16. However, the Form No.10B was not filed along with the Return of Income. This is a procedural requirement. However, the Centralized Processing Center(CPC) taxed the entire receipt of the Assessee. Assessee had raised a ground without prejudice before Id.CIT(A) that only the Net Profit should have been taxed. Ld.AR took us through the Profit and Loss Account and Return of Income to demonstrate that there is a loss during the year. Therefore, there cannot be any tax liability. Ld.AR relied on the decision of ITAT Pune in ITA No.361/PUN/2019 of DCIT Vs. Audyogik Shikshan Mandal vide order dated 07.03.2022.



Submission of ld.DR :

3. Ld.DR for the Revenue relied on the order of the Assessing Officer and ld.CIT(A).

Findings & Analysis :

4. We have heard both the parties and perused the records. We specifically asked ld.AR whether Form No.10B was filed before ld.CIT(A) or not! Ld.AR could not specifically answer it. However, ld.AR pleaded for the alternate ground that only the Net Profit shall be taxed. In this case, it is observed that CPC has taxed the entire Gross Receipt of Rs.30,29,895/- without considering the expenditure claimed by the Assessee in the Return of Income. Ld.CIT(A) has not adjudicated the Ground No.1(b) by assessee. However, ld.CIT(A) has reproduced the Income and Expenditure Account of the assessee in his order. On perusal of the Income and Expenditure Account reproduced by ld.CIT(A) in his order, we find that there is a deficit of Rs.1,80,090/- in the said Income and Expenditure Account. The said Income and Expenditure Account is reproduced as under :



Smt. Swati M. Tilekar
AUTHORISED AUDITOR

THE BOMBAY PUBLIC TRUST ACT, 1950
SCHEDULE IX C
(Vide rule 32)

Name of the public Trust :- Appasaheb Khanvilkar Gramin Vikas Dharmaday Nyas, Beni Budaruk,
Tal-Lanja, Dist-Ratnagiri

REGN NO - E-706 /RATNAGIRI

INCOME & EXPENDITURE FOR THE YEAR ENDED ON 31ST March 2015

EXPENDITURE		AMOUNT	INCOME		AMOUNT
To Direct Exp.		2329450/-	By Donation/Grant		3024284/10
Labour charges	405300/-		Sandoz Pvt. Ltd.	967000/-	
Plantation	1903150/-		Mahindra Lifespa	755784/10	
Office Rent	21000/-		Rallis	1285000/-	
			Forest Developers	16500/-	
To Indirect Exp		867133/13			
By Consaltancy Charges	64000/-				
By Salary	526849/-				
By Material Charges	256570/-		By Bank Interest		5611/-
By Bank Charges	101/13				
By Travelling exp.	19613/-		By Deficit		180090/03
To Dep On Desktop		13402/-			
TOTAL		3209985/13	TOTAL		3209985/13

Date- 23/03/2016

[Handwritten Signature]



[Handwritten Signature]
(Smt. Swati M. Tilekar)
AUTHORISED AUDITOR
PUBLIC TRUST, RATNAGIRI & RAIGAD
DIST



4.1 It is observed that ITAT Pune in the case of Dr. Sukumar J. Magdum Foundation Vs. ITO in ITA No.320/PUN/2023 has held as under :



“4.....
If the benefit of exemption u/s.11 is not available, the total income needs to be computed in accordance with the regular provisions of the Act. In the given circumstances, where the AO has charged tax on gross receipts, we cannot countenance the same.
.....”

4.2 In this case, ld.CIT(A) has reproduced the Income and Expenditure Account showing deficit. It means, ld.CIT(A) has accepted the Income and Expenditure Account submitted by the assessee. Since there is a loss in the case of assessee as per the Income and Expenditure Account, there cannot be any tax liability as calculated by CPC in the order u/s.143(1) of the Act. In these facts and circumstances of the case, the Alternative Ground raised by the assessee is allowed.

5. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 29th April, 2025.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(DIPAK P.RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 29th April, 2025/ SGR



आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, “एसएमसी” बेंच, पुणे / DR, ITAT, “SMC” Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.