

आयकर अपीलीय अधिकरण
कटक पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
CUTTACK BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री दुव्वुरु आरएल रेड्डी, उपाध्यक्ष (कोलकाता क्षेत्र)
एवं

श्री राकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI DUVVURU RL REDDY, VICE PRESIDENT (KZ)
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 17/CTK/2025
Assessment Year: 2020-21**

Saraswati Sishu Mandir	Vs.	Assessment Unit, Income tax Department
(Appellant)		(Respondent)
PAN: AAGAS0762A		

Appearances:

Assessee represented by : Nihar Ranjan Biswal, CA.

Department represented by : S.C. Mohanty, Sr. DR.

Date of concluding the hearing : 20-May-2025

Date of pronouncing the order : 29-May-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2020-21 dated 04.11.2024,



which has been passed against the assessment order u/s 144 of the Act, dated 09.09.2022.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

“1. For that, on the facts and circumstance of the case, the Ld. CIT(A) has erred in law, by dismissing the appeal as not maintainable when notices were not served upon the assessee. Therefore on the facts and circumstances of the case, assessment u/s 144 is liable to be null and void.

2. For that, on the facts and circumstance of the case the Ld. CIT(A) has erred in law, by not admitting the appeal of the assessee considering that the appeal is not maintainable due to non-conformity of provisions of Section 249(2) of the Act without appreciating that the cause mentioned in the appeal memo is a sufficient cause to condone the delay of 140days. Therefore, we request to set aside the appeal order and restore the matter to the Assessing officer for adjudication u/s 147.

3. For that, on the facts and circumstance of the case, the ld. CIT(A) has erred in law, by not admitting the appeal of the assessee considering that the appeal is not maintainable due to non-conformity of provisions of Section 249(2) of the Act when the Ld. CIT(A) issued a notice for hearing by requiring the assessee to submit the details in respect of grounds of appeal raised. Therefore, dismissing the appeal after proceeded for hearing is bad in law and liable to be set aside.

4. For that, on the facts and circumstance of the case, the Ld. CIT(A) has erred in law, by dismissing the appeal as not maintainable when the Id. AO disallowed the entire deduction of Rs. 2,21,54,696/- when the assessee is a society running a school and maintains the books of Account and books of account is duly audited by a Chartered Accountants. Therefore disallowing the deduction of Rs. 2.21.54.696/- is arbitrary, unjustified, illegal on the facts and circumstances of the case. Therefore we request to set aside the order passed u/s 144.

5. For that, on the facts and circumstance of the case, the Ld. CIT(A) has erred in law, by dismissing the appeal as not maintainable when the Id. AO has not applied the See-11 & Sec-12 of the Income Tax Act 1961 to the Asst. Year 2020-21, which was pending before the Id. AO as on the date of Registration of the Society u/s 12AA. Therefore disallowing the deduction of Rs. 2.21.54.696/- is bad in law on the facts and circumstances of the case and liable to be set aside.



6. *For that, the appellant may add, alter, amend any other grounds of appeal at time of hearing.”*

3. Brief facts of the case are that the assessee is an AOP, a Society registered under the Societies Registration Act, 1860 and had filed its return of income for AY 2020-21 declaring total income of Rs. 'NIL' on 27.03.2021. The case was selected for limited scrutiny through Computer Assisted Scrutiny Selection (in short 'CASS') to verify the claim of expense u/s 57 of the Act. Statutory notices u/s 143(2) and 142(1) of the Act were issued and duly served upon the assessee but the assessee did not reply to the notices. The Assessing Officer (hereinafter referred to as Ld. 'AO') has referred to the provisions of section 57 of the Act and noted that the assessee had not given any details to prove the genuineness of the claim of expenses of Rs. 2,21,54,696/-. Therefore, the Ld. AO disallowed the claim and assessed the total income of the assessee at Rs. 2,18,86,770/- u/s 143(3) of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who, vide order dated 04.11.2024, dismissed the appeal of the assessee on the ground of delay of almost four months in filing of the appeal before the Ld. CIT(A) as the assessee failed to justify the reasonable cause for the delay in filing the appeal.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival submissions were heard and the record and the submissions made have been examined.

6. We find that at both the stages of assessment before the Ld. AO as well as before the Ld. CIT(A) in the appeal, proper representation was not made on behalf of the assessee. The Ld. AR requested that the



matter may be remitted to the Ld. CIT(A) while the Ld. DR supported the order of the Ld. CIT(A). Therefore, we deem it appropriate in the interest of justice and fair play that another opportunity needs to be provided to the assessee to represent his case properly before the Ld. CIT(A) as the assessee claims to have sufficient evidence for the relief claimed. We, therefore, set aside the order of the Ld. CIT(A) and remit the appeal to him to be decided afresh, who shall allow an opportunity of being heard to the assessee and also grant an opportunity of representing the case and to be heard to the Ld. AO as per rule 46A of the Income Tax Rules, 1962, if required, and thereafter pass an order in accordance with law. For statistical purposes, the appeal of the assessee is allowed.

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

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

Sd/-

[Duvvuru RL Reddy]

Vice President (KZ)

Sd/-

[Rakesh Mishra]

Accountant Member

Dated: 29.05.2025

Bidhan (P.S.)



Copy of the order forwarded to:

1. **Saraswati Sishu Mandir, Deulisahi, Dhenkanal, Odisha, 759001.**
2. **Assessment Unit, Income tax Department.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Cuttack Bench, Cuttack.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata