

IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

I.T.A. No. 35/Ran/2024 (Assessment Year-2018-19)

(Virtual Hearing)

Silli College, Silli Village, Tutki, Nawadih, Ranchi-835012 (Jharkhand) PAN No. AARAS 5750 K	Vs.	I.T.O., Ward 2(1), Ranchi.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Shri V.K. Jalan, A.R.
Department represented by	Shri Khubchand T. Pandya, Sr.DR
Date of hearing	24/04/2025
Date of pronouncement	24/04/2025

ORDER

PER: BENCH

1. This appeal by the appellant is directed against the order of National Faceless Appeal Centre, Delhi (NFAC)/ learned Commissioner of Income Tax (Appeals), [in short, the Id. CIT(A)] dated 31/01/2024 for the Assessment Year (AY) 2018-19. In this appeal, the appellant has raised following grounds of appeal:

- "1. Under the facts and circumstances of the case the Ld CIT(A) did not appreciate the facts of the case and he was not right in adding the total fee so received without excluding the expenses and deciding the appeal referring to the case laws which are not applicable on to the facts of this case.
2. Under the facts and circumstances of the case the Ld CIT(A) has grossly failed to appreciate the exemption claimed by the assessee u/s 10(23C) (iiiad).
3. Under the facts and circumstances of the case the Ld CIT(A) was not right in not considering the working of the institution to understand the facts of the case, making this order bad in law and against the facts and against the intent of legislation.
4. The other grounds shall be urged at the time of hearing."

2. The facts of the case, in brief, are that the assessee is registered as a society in the name of "Silli College Silli Vikas Samiti" with the office of Inspector

General of Registration, Jharkhand. It was also observed that the society is wholly engaged in educational activities and is running college in the name and style of 'Silli College (Science), 'Silli College (Commerce) and 'Silli College (Arts) and the society has claimed its income to be exempt under Section 10(23C)(iiiad) of the Income Tax Act, 1961 (in short, the Act). It was claimed by the assessee that the aggregate annual receipts of the educational institution existed solely for educational purposes and not for purpose of profit. The Assessing Officer during the course of assessment proceedings under Section 143(3) r.w.s. 144B of the Act, however, treated the entire receipt of ₹ 2,36,07,125/- received by the society as income on the ground that the assessee is not entitled to get claim of exemption under Section 10(23C)(iiiad) of the Act since the total receipts exceeds ₹ 1.00 crore, the limit prescribed under the said Act. The Assessing Officer also held that the assessee was liable to maintain its books of account under Section 44AA of the Act and to get them audited under Section 44AB of the Act but the assessee society failed to do so. Penalty proceedings under Section 270A of the Act was also initiated separately against the assessee society.

3. Aggrieved by the order of Assessing Officer, the assessee society filed appeal before the Id. CIT(A). The Id. CIT(A) vide the impugned order, confirmed the addition made by the Assessing Officer on the same ground that the total fee received by the college has exceeded the limit of ₹ 1.00 crore and also that the assessee society has failed to get its books of account audited.
4. Aggrieved by the order of Id. CIT(A), this appeal has been preferred before us. During the course of appellate proceedings, the Id. Counsel of the assessee submitted that the Id. CIT(A) was not right in confirming the additions made by

the Assessing Officer and adding the entire receipt as income of the society without excluding the expenses incurred by the society by way of payment to various teachers and other expenses. This is against the principle of accounting and the credit of the same should have been given to the assessee. The Id. AR of the assessee further submitted that the assessee society is running a college where there are three wings i.e. science, commerce and arts and if the department wise receipts are considered, it is below ₹ 1.00 crore. Even after deducting expenses incurred by the college, receipts will come down below ₹ 1.00 crore, therefore, the order of the Id. CIT(A) should be set aside on these grounds.

5. So far the response of the Revenue is concerned on the above contention of the Id. AR, the Bench had earlier directed the Departmental Representative to file written submission on the observation made by the Id. CIT(A) in para 16 of the impugned order as under:

"The appellant's version is that fee collected from the three wings was not the gross receipt but subsequently, the payments were made to the professors and staff from fee received and after its payment, the amount was claimed exempt. The three colleges even if run by different management, were controlled by the same appellant i.e., Silli College Vikas Samiti. The appellant claim that it was entitled to keep the accounts as per the Societies Registration Act, which was done by it and its Audit Report was accepted in ACM & was filed before the Registrar of Societies. The appellant has not complied with the provisions of Income Tax Act, to enable the claim of exemption u/s 10(23C)(iiiad), for which Tax Audit report u/s 44AB was required. The appellant has not followed proper accounting by first considering the gross receipt of Rs.2,36,07,125 liable for mandatory tax audit and subsequently, arrive at net income. Further, the appellant failed to submit submission on show cause notice & took adjournment but again failed to submit any justification for arriving at the said income in the absence of any statutory audit."

In response to that, a written submission was filed by the revenue on 20/02/2025 in which it was submitted as under:

"The submission of the assessee filed during the course of faceless assessment proceedings and the order of Ld. CIT(A) have been carefully perused. For claiming exemption under 10(23C)(iiiad) of the I.T.Act, 1961 the aggregate annual receipts should not exceed one crore rupees. Here the assessee has grossly erred in understanding what the gross receipt is. In view of the assessee, gross receipt cannot be just the fee but the day to day expenses met for running the college in this remote area is to be subtracted and after that the receipt remains less than 1 crore making it eligible to be exempt under section 10(23C)(iiiad). GROSS RECEIPT is taking into account all the receipts during the year, which in this case exceeds one crore rupees. Gross receipts are the total amounts the organization received from all sources during its annual accounting period, without subtracting any cost or expenses.

Conclusively, the Assessing Officer as well as the Ld. CIT(A) has correctly held that the assessee is not eligible for claiming exemption under section 10(23C)(iiiad) of the I.T. Act, 1961 because:

(a) The assessee did not get its account audited in respect of the year under consideration.

(b) The annual receipt of the assessee for the year under consideration exceeds Rs. One crore."

6. We have considered the rival submissions of both the parties and found that the Ld. CIT(A) was right in holding to the extent that the total receipts of the college had exceeded ₹ 1.00 crore and also that no audit was done by the college and therefore, the assessee is not entitled to get exemption under Section 10(23C)(iiiad) of the Act, however, we are of the view that the society is entitled to get the credit of the expenditure it has incurred for the purpose of running of the college which has not been given either by the Assessing Officer or by the Ld. CIT(A). Accordingly, in view of the above observations, the case is remanded back to the file of Assessing Officer to give the credit of the expenses incurred by the assessee society on the basis of the books of account

filed by the appellant duly verified by the Assessing Officer. In the result, grounds of appeal raised by the appellant is partly allowed.

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

Order pronounced in open court on 24th April, 2025.

Sd/-
(GEORGE MATHAN)
JUDICIAL MEMBER

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Ranchi, Dated:30/05/2025

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Ranchi