

आयकर अपीलिय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1133/PUN/2019
निर्धारण वर्ष / Assessment Year : 2014-15

Mahila Seva Mandal,
25/20, Kusumbai Motichand Mahila Sevagram,
Opp. Karve Road, Erandwane, Pune – 411004

PAN : AAATM1622J

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Exemption Ward – 1,
Pune

.....प्रत्यर्थी / Respondent

Assessee by : Mrs. Deepa Khare
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 02-08-2022
घोषणा की तारीख / Date of Pronouncement : 03-08-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 14-06-2019 passed by the Commissioner of Income Tax (Appeals)-10, Pune [‘CIT(A)’] for assessment year 2014-15.

2. The assessee raised three grounds of appeal questioning the action of CIT(A) in confirming the order passed by the AO in rejecting the application filed u/s. 154 of the Act.

3. Brief facts as emanating from the record are that the assessee is a registered public charitable trust formed in 1940. It is involved in the betterment and rehabilitation of destitute women of the age between 18-60 years and girls between the age of 06-18 years. The assessee also provides shelter to around 250 children in the age group of 6 to 18 years. Most of these children come from economically weaker families, some with single parent and some are orphans etc. It is noted that the main objective of the assessee is to provide education to the said children.

4. The assessee filed its return of income for the present assessment year on-line on 17-06-2015 declaring total income at Rs. Nil. The assessee claimed application of income to an extent of Rs.61,07,545/-, accumulation of income of Rs.18,86,808/- and further to an extent of Rs.45,84,366/- on the gross receipts of Rs.1,25,78,719/-. The ACIT (CPC), Bangalore issued communication dated 08-01-2016 stating the return filed on 17-06-2015 is inconsistent and defective u/s. 139(9) of the Act and requested to provide details of investments/deposits made u/s. 11(5) in Schedule J within the period of 15 days from the receipt of notice and also stated in case of failure the return of income filed is liable to be treated as invalid return. Consequently, the CPC, Bangalore passed an order dated 11-03-2016 by treating the return filed on 17-06-2015 is invalid return. The assessee filed an application u/s. 154 of the Act before the

jurisdictional AO vide application dated 18-08-2016 enclosing the details of investments/deposits as required u/s. 11(5) of the Act. The AO rejected the application filed u/s. 154 of the Act vide its order dated 27-02-2017. Aggrieved by the same, the assessee preferred an appeal before the CIT(A), wherein, the CIT(A) confirmed the order of AO, which is impugned before us.

5. The ld. AR, Mrs. Deepa Khare submits that the assessee tried to rectify the return on-line in response to communication dated 08-01-2016 passed by the CPC, Bangalore but however the assessee was unable to rectify the same on-line. Further, she submits that the present assessment year is the first year in which an option of filing return of income on-line was given and by mistake the assessee could not file the details along with the return of income. She argued that the AO (CPC), Bangalore did not give opportunity to rectify the defect and it is mandatory on the part of AO (CPC) to give opportunity to the assessee u/s. 139(9) of the Act. Further, she submits that the return of income cannot be held defective merely for not enclosing the details of investments/deposits u/s. 11 of the Act by referring to clauses (a) to (f) of explanation to section 139(9) of the Act. She submits that the assessee complying with all the provisions of the Act in earlier years and there was no malafide intention in not providing investments/deposits and prayed to give opportunity for the assessee to file the same before the AO by setting aside the order of CIT(A) and placing reliance on the order of this Tribunal in the case of Deere & Company reported in 92 ITR 564 (Pune-Trib.). The ld. DR, Shri Arvind Desai relied on the order of CIT(A).

6. Heard both the parties and perused the material available on record. We note that the assessee filed its return of income on 17-06-2015. The assessee claimed application of income to its objectives to an extent of Rs.61,07,545/-, accumulation of income of Rs.18,86,808/-. The objection of CIT(A) was that the assessee claimed excess accumulation to the tune of Rs.45,84,366/- and no details regarding investments/deposits were filed with the return of income, though the said discrepancies was brought to the notice of assessee by the AO (CPC), but no compliances made by the assessee in order to rectify the said mistake. We find the rectification application u/s. 154 of the Act is placed at pages 1 and 2 of the paper book, wherein, it is noted that the assessee enclosed the details of investments/deposits for ready reference of AO and requested the AO to accept the same. The AO did not consider the same and held the return of income as invalid. The contention of Id. AR is that the assessee ready to file all the investments/deposits, because of treating return of income as invalid, the proceedings u/s. 11 will go against the assessee. We find on similar issue the Co-ordinate Bench of this Tribunal in the case of Deere & Company (supra) held that, no technicality can be allowed to operate as a speed breaker in the course of dispensation of justice. If a particular relief is legitimately due to an assessee, the authorities cannot circumscribe it by creating such circumstances leading to its denial. We find the order of CIT(A) in confirming the order of AO in treating the return of income as invalid, made the assessee remediless and there is no option to claim exemption u/s. 11 of the Act. In such circumstances, we find force in the arguments of the Id. AR that the assessee shall get an opportunity to file details of investments/deposits before the AO. Therefore, we deem it

proper to remand the issue to the file of AO with a direction to treat the return of income filed by the assessee on 17-06-2015 as valid return and complete the assessment thereon. The assessee is liberty to file evidence, if any, in support of its claim. Thus, the grounds raised by the assessee are allowed for statistical purpose.

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

Order pronounced in the open court on 03rd August, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 03rd August, 2022.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-10, Pune
4. The CIT(Exemptions), Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune