

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"A" BENCH, AHMEDABAD**

**BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER**  
**AND**  
**SMT. MADHUMITA ROY, JUDICIAL MEMBER, JUDICIAL MEMBER**

**ITA No.437/Ahd/2022**  
**Assessment Year : 2017-18**

Shree Vasan Sheri Kelavani Samiti Trust Vasan Sheri Saraspur Ahmedabad 380001. PAN : AAETS 4842 E	Vs.	ITO, Ward-2 (Exemption) Ahmedabad.
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<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/(Respondent)</b>
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Assessee by :	Shri S.N. Divetia, AR & Shri Samir Vora, AR
Revenue by :	Ms.Saumya Pandey Jain, Sr.DR

सुनवाई की तारीख/**Date of Hearing** : **28/08/2023**  
घोषणा की तारीख /**Date of Pronouncement**: **04/10/2023**

**आदेश/O R D E R**

**PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

The above appeal has been filed by the assessee against the order passed by the Id.CIT(A), National Faceless Appeal Centre, Delhi dated 30.8.2022 under section 250(6) of the Income Tax Act, 1961 (hereinafter referred to as the "Act"), for the assessment year 2010-11.

2. At the outset, it is noted that the Registry has pointed out that the appeal of the assessee has been filed late by 18 days. In order to explain the reason for the impugned delay, the assessee has filed an application for condonation of delay pleadings *interalia* as under:

*“2(a) The applicant states that the assessee is a very old trust engaged in public charitable activity of running a school for children of poor and needy class of the society in the walled city area of Saraspur, Ahmedabad, since around 1999. It is working with a very small staff who is also not well versed in the tax and legal matters, apart from the same is often changing. Recently, the copy of order passed by NFAC on 30.08.2022 for AY 2017-18 was available on its IT Portal but the accountant is not well conversant with the I.T. Technology, hence he is not opening the IT Portal of the trust regularly. However, when the preparation for filing ITR for the current year was being made, the tax consultant came to know about the impugned order passed by NFAC. Thus the delay has been caused in filing the present appeal.”*

3. After having heard both the parties, and perusal of the delay condonation application filed by the assessee, the assessee has explained causes of delay being that, the assessee being a small trust, and having only few staff to look its affairs, and most of them were not well versant with the income tax matter and inadequate exposure and experience to the income tax e-portal, delay in filing the appeal the appeal before the Tribunal was caused, and when the assessee got its impugned order, it immediately filed appeal before the Tribunal and in the process a small delay of 18 days has occurred. We are of the view, the delay being minimal and reasons of which were explained by the assessee in the application, being justifiable, we are inclined to condone 18-days delay in filing the appeal before the Tribunal, and proceed to decide the appeal on merits hereinafter.

4. The grievances of the assessee against the impugned order of the Id.CIT(A) are reflected in the following manner, as given in the grounds of appeal.

*“1.1 The order passed U/s.250 on 30.08.2022 by NFAC Delhi for A.Y.2017-18*

*upholding the assessed income at RS. 51,59,168/-and disregarding the exemptions u/s.11 aggregating to RS.51,59,168/- is wholly illegal, unlawful and against the principles of natural justice.*

*1.2 The Ld. NFAC has grievously erred in law and or on facts in not considering fully and properly the submissions made and evidence produced by the appellant to the effect that mistakes were committed in uploading data in ITR Form-7.through inadvertent errors in feeding data by office staff of the Tax Consultant.*

*2.1 The Ld. NFAC has grievously erred in law and on facts in confirming assessed income at RS. 51,59,168/-and disregarding the exemptions u/s. 11 aggregating to RS.51,59,168/-.*

*That in the facts and circumstances of the case as well as in law, the Ld. NFAC ought not to have upheld the assessed income at RS.51,59,168/-and disregarding the exemptions u/s 11 aggregating to RS.51,59,168/-.*

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*3.1 The Ld. NFAC ought to have appreciated that merely because wrong entry has been made in entering the data in ITR Form-7, it does not empower CPC to reject the claim of exemptions u/s 11 and assess income which is not chargeable.*

*4.1 Without prejudice to the above and in alternative, the Ld NFAC ought to have allowed the exemptions admissible u/s 11 when all the conditions of sec 11 were admittedly satisfied.”*

5. A perusal of the above grounds reveals that the assessee is aggrieved by the addition of Rs.51,59,168/- made by the AO vide intimation under section 143(1) of the Act and confirmed by the ld.CIT(A), which the assessee claimed as exempt under section 11 of the Act.

6. As facts emerge out from the record, the assessee is a charitable trust engaged in activity of running a school for children of poor and needy class of the society in Ahmedabad. In the return of income filed by the assessee, the assessee claimed its entire income exempt from tax in terms of section 11 of the Act which was denied in the intimation made by CPC u/s 143(1) of the Act.

7. The contention of the ld.counsel for the assessee before us was that its income from charitable activities was inadvertently reflected in the return filed on-line, as income from other sources, amounting to Rs.51,59,168/-. He drew our attention to this fact from the intimation made under section 143(1) of the Act. He stated, because

of this inadvertent error in punching the details relating to its income, the benefit of application of its income to charitable purposes which was disclosed at Rs.42,48,574/- was completely denied to the assessee in the intimation made under section 143(1) and the entire income relating to charitable activities amounting to Rs.51,59,168/- assessed to tax, levying tax on the same to the tune of Rs.13,72,751/-.

The contention of the ld.counsel for the assessee was that it was on account of punching error that income from charitable activities was reflected as income from other sources. The fact of the matter was that, its income from charitable activities was to the tune of Rs.51,59,168/- as against which its application for charitable purpose was to the tune of Rs.42,48,574/- on revenue account and addition in fixed asset was to the tune of Rs.3,01,227/- which makes total utilization for charitable purposes to 88.18% of its income entitling the assessee to exemption of entire income earned from charitable activities. In this regard, he drew our attention to computation of income for the impugned year filed before us reflecting the above facts. He also pointed out that an application seeking rectification of the intimation under section 154 has been filed to the AO in this regard dated 29/04/2019. Copy of the same was filed before us and our attention was drawn to the contents of the said application reflecting the same facts as pleaded before us.

8. The ld.DR stated that in view of the fact that, the assessee has also sought alternative remedy by filing rectification application before the AO, this appeal be also restored back to the AO to be considered along with rectification application.

The ld.counsel for the assessee fairly agreed with the same.

9. In view of the above, we consider it fit to restore the issue back to the file of the AO to consider the claim of the assessee to exempt its entire income earned from the charitable activities under section 11 of the Act after taking note of all the evidences filed by the assessee. This issue is to be considered along with 154-application filed by the assessee, since both relate to the same aspect. In view of the above, the grounds of the assessee are allowed for statistical purposes.

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

**Order pronounced in the Court on 4<sup>th</sup> October, 2023 at Ahmedabad.**

**(MADHUMITA ROY)  
JUDICIAL MEMBER**

**(ANNAPURNA GUPTA)  
ACCOUNTANT MEMBER**

Ahmedabad, dated 04/10/2023