

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA-PATNA 'e-COURT', KOLKATA  
[Virtual Court Hearing]**

**Before Shri P.M. Jagtap, Vice-President(KZ)**

**I.T.A. No. 35/PAT/2019  
Assessment Year: 2013-2014**

**MAHI,.....Appellant**  
**Vill. Dostpur, P.O. Bariyarpur,**  
**Block-Bathnaha, Sitamarhi, Bihar-843302**  
**[PAN: AABAM1977G]**

**-Vs.-**

**Income Tax Officer,..... Respondent**  
**Exemption Ward, MuZaffarpur,**  
**Bela Kothi, R.K. Mission Road,**  
**Myuzaffarpur, Bihar-842005**

**Appearances by:**

*N o n e, for the Appellant*

*Shri Ajay Kumar, JCIT, Sr. D.R., for the Respondent*

Date of concluding the hearing : September 06, 2021

Date of pronouncing the order : September 06, 2021

**O R D E R**

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals), Jamshedpur dated 22.10.2018 and the solitary issue involved therein relates to the disallowance of 25% made by the Assessing Officer and confirmed by the Id. CIT(Appeals) out of activities expenses claimed by the assessee.

2. The assessee in the present case is a Charitable Institution, which runs various activities of public utility from the income derived from donations, subscriptions, Members contribution, grant-in-aid, miscellaneous receipts etc. The return of income for the year under consideration was filed by it on 23.12.2014 declaring its total income at 'NIL'. The said return was selected for scrutiny and a notice under section 143(2) was issued by the Assessing Officer to the assessee on 21.09.2015. There was, however, no compliance on the part of the assessee to the said

notice issued by the Assessing Officer under section 143(2) of the Act as well as the subsequent notices issued by him under section 142(1) of the Act. The Assessing Officer, therefore, was left no option but to complete the assessment to the best of his judgment on the basis of material available on record. In the assessment so completed under section 144 of the Act vide an order dated 22.03.2016, the disallowance of Rs.9,93,563/- was made by the Assessing Officer being 25% of the total activities expenses of Rs.39,74,251/- claimed by the assessee by treating the same as unverifiable.

3. Against the order passed by the Assessing Officer under section 144 of the Act, an appeal was preferred by the assessee before the Id. CIT(Appeals) challenging the disallowance made by the Assessing Officer out of activities expenses. During the course of the appellate proceedings before the Id. CIT(Appeals), the submission was filed by the assessee along with the copies of bills and vouchers to support and substantiate its claim for deduction on account of activities expenses. The Id. CIT(Appeals), however, did not find merit in the case of the assessee and proceeded to confirm the disallowance of 25% made out of activities expenses for the following reasons given in paragraph no. 3 of his impugned order:-

*"3. As mentioned in para 1 of this order the assessment was completed under section 144 of the Act. There is only one issue in this appeal that AO had disallowed 25% of the Activities Expenses claimed at Rs.39,74,251/-, i.e. an amount of Rs.9,93,563/- was added to the total income of the appellant-assessee. During the course of the appellate proceedings, the appellant filed a submission along with copies of bills and vouchers claimed to be for the Activities Expenses. On perusal of such copies of bills and vouchers I find that those bills/vouchers do not appear to be genuine. The largest part of the expense is self-vouched. Even the third party bills are all 'kuchha' bills. Not a single bill bears any VAT/TIN No. of the bill issuer. Most of the bills do not bear any proper, verifiable address. And the most importantly, the entire expenditure is in cash. Therefore, after considering the facts on record it is held that AO was justified in disallowing 25% of the Activities Expenses, which resulted in addition of Rs. 9,93,563/- to the total income of the appellant-assessee.*

*Hence, the appellant's grounds are dismissed and the action of the AO is upheld. Accordingly, the addition of Rs. 9,93,563/- is confirmed".*

Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

4. At the time of hearing fixed in this case today, none has appeared on behalf of the assessee. It is noted that there was a similar non-compliance on the part of the assessee when its appeal was fixed for hearing earlier atleast on five occasions. This appeal of the assessee, therefore, is being disposed of ex-parte after hearing the arguments of the Id. D.R. and considering the relevant material available on record. It is observed that even though there was no compliance on the part of the assessee to the notices issued by the Assessing Officer during the course of assessment proceedings resulting into disallowance of 25% out of activities expenses as made by the Assessing Officer in the assessment completed under section 144 of the Act, copies of bills and vouchers to support and substantiate the expenses claimed by it on account of activities were produced by the assessee before the Id. CIT(Appeals) during the course of appellate proceedings. The Id. CIT(Appeals), however, found that the activities expenses claimed by the assessee were mainly self-vouched and the same were incurred in cash. He, therefore, held that the activities expenses claimed by the assessee were not fully verifiable and the disallowance of 25% made by the Assessing Officer out of such expenses was confirmed by him. As submitted on behalf of the assessee in the grounds filed before the ITAT, it is a Non-Profit Seeking Organization, which is doing work for the benefit of the rural people of remote villages. It is submitted that the assessee's charitable works were mainly spread to remote villages where there were no basic facilities available like Banks, regular shops, regular means of transportation etc. It is submitted that it was, therefore, difficult to get regular vouchers/bills for the activities expenses incurred by the assessee and

the said expenses, therefore, were supported by self-made vouchers. It is also submitted that the accounts of the assessee were duly audited by the Chartered Accountant as per the Income Tax Law and the activities expenses claimed by the assessee were properly verified by the auditor. Keeping in view all these relevant facts of the case and having regard to the nature of the activities of the assessee, which is mainly for the benefit of the rural people of remote villages, I am of the view that the disallowance of 25% made by the Assessing Officer and confirmed by the Id. CIT(Appeals) out of activities expenses for non-verifiable element involved therein is on the higher side. Even the Id. D.R. has not been able to raise any material contention to rebut or controvert this position. I, therefore, consider it fair and reasonable to restrict the disallowance of 25% made by the Assessing Officer and confirmed by the Id. CIT(Appeals) out of activities expenses to 10%.

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

Order pronounced in the open Court on September 06, 2021.

**Sd/-  
(P.M. Jagtap)  
Vice-President**

**Kolkata, the 6<sup>th</sup> day of September, 2021**

- Copies to :*
- (1) **Mahi,  
Vill. Dostpur, P.O. Bariyarpur,  
Block-Bathnaha, Sitamarhi, Bihar-843302**
  - (2) **Income Tax Officer,  
Exemption Ward, Muzaffarpur,  
Bela Kothi, R.K. Mission Road, Muzaffarpur, Bihar-842005**
  - (3) **Commissioner of Income Tax (Appeals), Jamshedpur,**
  - (4) **Commissioner of Income Tax-**
  - (5) **The Departmental Representative**
  - (6) **Guard File**

*By order*

**Senior Private Secretary/DDO  
Income Tax Appellate Tribunal,  
Kolkata Benches, Kolkata**

**Laha/Sr. P.S.**