

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B": HYDERABAD  
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 351/H/2019 Assessment Year: 2014-15		
Income-tax Officer, (Exemptions), Tirupathi.	Vs.	Madina Enggg. College under the auspices Bukharia Educational Society, Kadapa
(Appellant)		(Respondent)
Revenue by:	Shri Rohit Mujumdar	
Assessee by:	None	
Date of hearing:	08/06/2021	
Date of pronouncement:	18/06/2021	

**ORDER**

**PER L.P. SAHU, A.M.:**

This appeal filed by the Revenue is directed against CIT(A), Kurnool's order dated 03/12/2018 for AY 2014-15 involving proceedings u/s 144 of the Income Tax Act, 1961 ; in short "the Act" on the following grounds:

*"1. The Ld CIT(A) erred in allowing the appeal of the assessee.*

*2. The Ld. CIT(A) erred in deleting the addition made by the AO in respect of the net surplus of Rs. 1,61,95,594/- as the assessee failed to submit evidence in support of*

*the amount spent and also failed to prove that the same was spent only for the aims and objectives of the Society.*

*3. The Ld. CIT(A) erred in disregarding the fact that no evidences were produced before the AO to substantiate its claim of exemption u/s. 11 of the LT. Act.*

*4. The Ld. CIT(A) while relying on the submission made by the appellant regarding closure of the college and disputes among board members, erred in ignoring the fact that the assessee failed to prove that the activities of the Society have been pursued and that they were genuine and charitable in nature.*

*5. Any other ground that may be taken up at the time of hearing.”*

2. The assessee M/s Bhukriya Educational Society has been running an educational institution under the name and style of M/s Madina Engineering College at Kadapa. The Society is exempted u/s 12A of IT Act 1961 since dated 27-07-2004. The assessee filed the Return of income for AY 2014-15 ON 18-12-2014 disclosing an income of Rs. NIL claiming exemption u/s 11 of the IT Act 1961. Subsequently, the case was selected for scrutiny. The books of account & vouchers were not provided by the assessee. Only, bank accounts were submitted during the course of assessment proceedings. The assessment proceedings were completed u/s.144 ex-parte on 19.12.2016 by disallowing exemption u/s. 11 of the I.T. Act and treated surplus income of Rs.1,61,95,594/- disclosed in the Return of Income as assessee's income from business.

3. When the assessee preferred an appeal before the CIT(A) against the order of AO, the CIT(A) directed the AO to grant exemption u/s 11 and delete the addition of Rs. 1,61,95,594/- following the decision of assessee's own case for AY 2009-10 wherein the return of income was scrutinized u/s 143(3) of the Act and exemption u/s 11 of the Act was allowed.

4. Aggrieved by the order of CIT(A), the revenue is in appeal before the ITAT.

5. None appeared on behalf of the respondent-assessee at the time of hearing of this appeal. However, we proceed to dispose of the appeal after hearing the ld. DR and the facts available on record.

6. Before us, the ld. DR submitted that the CIT(A) erroneously directed the AO to delete the addition made in respect of the net surplus of Rs. 1,61,95,594/- when the assessee failed to submit evidence in support of the amount spent and also failed to prove that the same was spent only for the aims and objectives of the society. He, further submitted that the CIT(A) relying on the submission made by the assessee regarding closure of the college and disputes among board members, erred in ignoring the fact that the assessee failed to prove that the activities of the

society have been pursued and that they were genuine and charitable in nature.

7. We have considered the submissions of the Id. DR and perused the material available on record as well as gone through the orders of the revenue authorities. The gross receipts of the assessee society for the impugned AY were amounted to Rs. 4,04,67,869/-, out of which the assessee had shown a net surplus of Rs. 1,61,95,594/- and claimed the same as exempt income u/s 11 of the Act. When the AO asked the assessee to produce books of accounts along with bills, vouchers and other supporting documents for verification, the assessee failed to furnish the same. In the absence of the same, the AO disallowed the exemption claimed u/s 11 of the Act. On the other hand, the CIT(A) following the assessee's own case for AY 2009-10 wherein exemption u/s 11 of the Act was allowed by the AO in the assessment made u/s 143(3) of the Act, directed the AO to allow the assessee's claim of exemption u/s 11 of the Act, which is not proper as the CIT(A) himself mentioned in his order that merely because there was no compliance with the requirement of production of books of account, vouchers etc. the AO's abrupt conclusion to deny exemption u/s 11 is farfetched and also misplaced. The assessee itself admitted that by filing a letter regarding the closure of business due to unhealthy competitions and several disputes and discrepancies among the board members of

the society. In the absence of books of accounts and vouchers, the AO was unable to ascertain as to whether the receipts have been utilized only for the aims and objects of the society. Therefore, the order of the CIT(A) is contrary in nature. Therefore, considering the totality of the facts of the case, to meet the ends of justice, we remit the issue back to the file of the AO with a direction to decide the appeal on merits after examining the documentary evidence as required for claiming exemption u/s 11 by the Assessee, which will be put-forth by the assessee before him. The assessee is directed to comply with directions of the AO in substantiating its claim by way of documentary evidence as required by the AO. Needless to say that a reasonable opportunity of being heard to the assessee be given and the assessee is directed to avoid unnecessary adjournments for early completion of assessment. Accordingly, the grounds raised by the revenue are treated as allowed for statistical purposes.

8. In the result, appeal of the revenue is treated as allowed for statistical purposes in above terms.

Pronounced in the open court on 18<sup>th</sup> June, 2021.

**Sd/-**  
**(S.S. GODARA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(L. P. SAHU)**  
**ACCOUNTANT MEMBER**

Hyderabad, Dated: 18<sup>th</sup> June, 2021.

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*Copy to :*

<i>1</i>	<i>The ITO (Exemptions), Dr. Rama Chandra Apartments, Ground Floor, New D. No. 3-13-M20-13, Reservoir Road, Sarojini Devi Nagar, Tirupathi – 517 501.</i>
<i>2</i>	<i>Madina Engg. College under the auspices of Bukharia Educational Society, D. No. 13-386, Sahib Makan, Chandpira Gumbad, Kadapa – 516 001.</i>
<i>3</i>	<i>CIT(A), Kurnool.</i>
<i>4</i>	<i>CIT (Exemptions), Hyderabad</i>
<i>5</i>	<i>ITAT, DR, Hyderabad.</i>
<i>6</i>	<i>Guard File.</i>