

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "H": NEW DELHI**

**BEFORE N.K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 3372/Del/2023  
Asstt. Year: 2021-22

The Institute of Company Secretaries of India, ICSI House 22 Institutional Area, Lodi Road, H.O Aliganj, Delhi 110003 PAN AAATT1103F	vs.	DCIT, Circle Exemp 2(1) Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by:	Shri Ranjan Chopra, CA
Department by :	Ms. Sapna Bhatia, CIT- DR
Date of Hearing	19/02/2024
Date of pronouncement	27/03/2024

**ORDER**

**PER ASTHA CHANDRA, JM**

The appeal filed by the assessee is directed against the order dated 27.09.2023 of the Ld. Commissioner of Income Tax (Appeals) NFAC, Delhi ("**CIT(A)**") pertaining to Assessment Year ("**AY**") 2021-22.

2. The assessee has raised the following grounds of appeal:-

- “1. That the Order of learned CIT (A), NFAC partly sustaining the order of the learned Assessing Officer is bad in law and on facts and is liable to be set- aside.
2. That the learned CIT (A), NFAC has erred in law and on facts in only partly allowing the claim made u/s 11(2) of the Income Tax Act, 1961 amounting to Rs.110,94,73,718/- as against Rs.120,00,33,672/-claimed in ITR form.
3. That the learned CIT (A), NFAC has erred in law and on facts in not giving the benefit of balance claim of Rs.9,05,58,182/- on account of non- accumulation of funds u/s 11(5) of the Act, though evidences were furnished with the learned CIT(A).
4. That order passed by learned CIT (A), NFAC is against the principles of natural justice as no clarification was sought for any discrepancy found while matching the details of investment with evidence furnished.
5. That the disallowance made u/s 11(2) by Centralized Processing Center, Income Tax Department and by learned CIT(A), NFAC was outside the purview of section 154 r.w.s.143(1) of the Income Tax Act, 1961.
6. That the learned CIT(A) as well as Centralized Processing Center, Income Tax Department has failed to appreciate that the assessee had duly complied with provisions of 11(2) as Form 10 was e-filed before the specified due date.
7. On the facts and circumstances of the case, the issue before the learned CIT(A) is regarding the allowance of exemption claimed u/s 11(2) which CPC, Income Tax Department has disallowed on the ground that amount entered at Sl. No. 4vi of Part B-TI (Rs. 1,20,00,33,672/-) is not equal to amount mentioned at Sl. No. 1 of Form 10 (Rs.1,35,00,00,000/-) and further, stated that hence exemption claimed for accumulation is allowable to the extent of amount entered in Form. However, amount considered by Centralized Processing Center as Rs.0 adjacent to Error Description under the head As Computed contradicting its own statement.”

3. The brief facts as narrated by the Ld. CIT(A) are as under:-

“**1.2.** The appellant filed ROI on 11.03.2022 declaring a total income of Rs. Nil and claimed refund of Rs. 1,68,51,181/- after claiming exemption u/s. 11(2) for an amount of Rs. 120,00,33,672/-. At the time of issuing intimation u/s 143(1) dated 14/12/2022, the CPC, Bengaluru had given less credit of TDS by Rs.72,55,653/- and accordingly, refund of Rs. 95,95.528/- had been

determined as against refund of Rs. 1,68,51,181/- claimed in ITR. In response to above said intimation issued u/s 143(1), a rectification application u/s 154 was e-filed by the appellant on 20/12/2022 stating "**Correction of details of Pre-paid Taxes**". Thereafter, an order was passed u/s 154 of the IT Act by CPC, Bangalore dated 12/01/2023 wherein CPC had not given the credit of balance TDS but this time demand was raised for Rs. 64,47,35,040/- on account of **disallowing the claim made u/s 11(2) of the Income Tax Act, 1961 amounting to Rs. 1,20,00,33,672/-**.

**1.3.** Against the above said rectification order passed u/s 154 of the IT Act dated 12/01/2023, the appellant had again e-filed rectification application u/s 154 of the I T Act, 1961 on 13/01/2023 to reprocess the case. In response to the above said application, a rectification order u/s 154/143(1) was passed by CPC, Bangalore on 24/01/2023 wherein the department had given full credit of TDS as was claimed in ITR form i.e. Rs. 1,68,51,181/-, however the benefit of exemption claimed u/s 11(2) of the Act amounting to Rs. 1,20,00,33,672/- was not given and accordingly, demand of Rs. 63,55,89,270/- has been raised by CPC."

4. Aggrieved by the denial of benefit of exemption claimed under section 11(2) of the Income Tax Act, 1961 (**the "Act"**) amounting to Rs. 1,20,00,33,672/- in rectification order under section 154/143(1) dated 24.01.2023 passed by CPC Bangalore, the assessee filed appeal before the Ld. CIT(A).

5. The assessee made submission which is reproduced by the Ld. CIT(A) in para 4.2 of his appellate order. During appeal proceedings the Ld. CIT(A) required the assessee to explain why there was a difference in figures in computation of income in return of income and in Form 10 in respect of total amount of accumulated funds under section 11(2) for the AY 2021-22. The assessee submitted reply which is reproduced by the Ld. CIT(A) at page 11-12 of the appeal order. The Ld. CIT(A) recorded his observation and findings in para 4.3.4 and 4.3.5 which is reproduced hereunder:-

**"4.3.4.** In this regard, it is seen that the appellant is stating that the resolution is passed for accumulation of Rs. 135,00,00,000/- whereas required accumulation is only Rs. 120,00,33672/-. In this respect, the figures are verified and calculation for required accumulation is as under:-

<i>Receipts for the year less of corpus donations</i>	-150,87,77,329
<i>Less:- 15% allowed without application</i>	-22,63,16,600
<i>Remaining 85% to be applied</i>	-128,24,60,729
<i>Less Actually applied for purposes of the trust</i>	-8,24,28,829
<b><i>Remaining to be accumulated u/s 11(2) -</i></b>	<b>-120,00,31,900</b>

*(to claim deduction)*

*Therefore, there is merit in the appellant's contention that the Rs. 135,00,00,000/- not necessary to be accumulated.*

**4.3.5.** *In this context, the actual accumulation figures given by the appellant and the figures on verification of the evidences attached for accumulation under specified modes of section 11(5), for the year under consideration, are as under-*

***Investment details u/s 11(5) for the AY 2021-22***

<b><i>PARTICULARS</i></b>	<b><i>Invested u/s 11(5)-as stated by the appellant</i></b>	<b><i>As per documents provided by appellant</i></b>
<b><i>1. INVESTMENT IN GOVT. SECURITIES</i></b>		
<b><i>GOI Bonds (Cum-HY)</i></b>	-	
<b><i>GOI Saving Bonds</i></b>	-	
	<b><i>SUB-TOTAL(I) -</i></b>	
<b><i>II. INVESTMENT IN DEBENTURES/BONDS</i></b>		
<i>8.70% LIC HSG 2029</i>	<i>90,000,000</i>	<i>90,000,000</i>
<i>7.99% LIC HSG 2029</i>	<i>12,20,00,000</i>	<i>12,20,00,000</i>
<i>7.03% NHAI 2040</i>	<i>40,00,00,000</i>	<i>35,00,00,000</i>
	<b><i>SUB-TOTAL(II)</i></b>	<b><i>61,20,00,000 56,20,00,000</i></b>

***III OTHER NON-CURRENT INVESTMENTS***

*(A) Fixed Deposits in Banks*

Canara Bank	2,15,55,040	2,15,55,040
Corporation Bank	4,60,82,601	14,00,000
UCO Bank	5,30,000	5,60,000
Indian Overseas Bank	2,60,90,814	2,32,10,262
Union Bank of India (UBI)	1,29,49,016	1,29,48,416
<b>SUB-TOTAL(III-A)</b>	<b>10,72,07,471</b>	<b>5,96,73,718</b>
<i>(8) Fixed Deposits with institutions other than Banks</i>		
PNB-HFL	48,97,50,000	48,78,00,000
<b>SUB-TOTAL(III-B)</b>	<b>48,97,50,000</b>	<b>48,78,00,000</b>
<i>(C) Fixed Deposits with institutions/ Banks/Others</i>		
Others	14,10,42,529	NOT GIVEN
<b>SUB-TOTAL(III-C)</b>	<b>14,10,42,529</b>	<b>0</b>
<b>TOTAL(I+II+III)</b>	<b>135,00,00,000</b>	<b>1,10,94,73,718</b>

Since the appellant has accumulated Rs. 110,94,73,718/- in the modes specified u/s 11(5) as evidenced, which is lower than the amount of Rs. 120,00,31,900/- required as per the section 11(2), the deduction u/s 11(2) is allowable only on the amount of Rs. 110,94,73,718/-. The remaining amount of Rs. 9,05,58,182/- (120,00,31,900 - 110,94,73,718) is not eligible for deduction being more than the allowable 15% and not accumulated into the specified modes u/s 11(5). **The AO is directed to restrict the said addition to Rs. 9,05,58,182/-."**

6. Thus, the Ld. CIT(A) partly allowed the assessee's claim under section 11(2) of the Act amounting to Rs. 110,94,73,718/- as against Rs. 120,00,33,672/- claimed in the return. It is against the denial of benefit of balance claim of Rs. 9,05,58,182/- on account of non-accumulation of funds under section 11(5) of the Act, that the assessee is in appeal before the Tribunal and all the grounds of appeal relate thereto.

7. The Ld. AR submitted that the assessee is registered under section 12A of the Act. It e-filed rectification application under section 154 after receipt of intimation under section 143(1)(a) of the Act. However, in order under section 154 dated 20.01.2023 passed by CPC Bangalore the assessee's claim made under section 11(2) of the Act amounting to Rs. 1,20,00,33,672/- which was in original intimation under section 143(1) dated 14.12.2022 was allowed, was denied. He drew our attention to page 15, 18, 31, 35 and 52 of the Paper Book in support of the above contention. The Ld. AR further submitted that the assessee, despite having reservation about it, submitted all documents pertaining to investments under section 11(5) of the Act before the Ld. CIT(A) on being asked and referred to pages 60-65 of the Paper Book. It is his contention that the Ld. CIT(A) did not ask for clarification from the assessee for alleged discrepancy found by him while matching the details of investment with evidence furnished. This is in violation of the principles of natural justice. The Ld. AR asserted that the CPC Bangalore as also the Ld. CIT(A) did not appreciate that the assessee had duly complied with the provisions of section 11(2) as Form 10 was e-filed before the specified due date.

8. The Ld. CIT-DR supported the order of the Ld. CIT(A).

9. We have carefully considered the submission of the Ld. Representative of the parties and perused the record. In our view, the claim of the assessee needs verification. We, therefore, consider it judicially expedient to restore the matter back to the file of the Ld. AO to carry out necessary verification of the assessee's claim and if on verification, the claim of the assessee is found to be correct and in accordance with law, modify the assessment. We order accordingly.

10. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

**Order pronounced in the open court on 27<sup>th</sup> March, 2024.**

**sd/-  
(N.K. BILLAIYA)  
ACCOUNTANT MEMBER**

**sd/-  
(ASTHA CHANDRA)  
JUDICIAL MEMEBR**

Dated: 27/03/2024

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Copy forwarded to –

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	