

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.2510, 2511 & 2512/Mds/2016

&

C.O. Nos.155, 156 & 157/Mds/2016

(in ITA Nos.2510, 2511 & 2512/Mds/2016)

निर्धारण वर्ष / Assessment Years : 2010-11, 2011-12 & 2012-13

The Income Tax Officer
(Exemptions), Ward-3,
Chennai - 600 034.

v. M/s Tamil Nadu Golf Federation,
No.334, Anna Salai,
Nandanam, Chennai - 600 015.

(अपीलार्थी/Appellant)

PAN : AAATT 2341 E

(Respondent & Cross-objector)

अपीलार्थी की ओर से/Appellant by : Shri Supriyo Pal, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri V. Ravichandran, CA

सुनवाई की तारीख/Date of Hearing : 14.03.2017

घोषणा की तारीख/Date of Pronouncement : 13.04.2017

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

All the appeals of the Revenue are directed against the common order passed by the Commissioner of Income Tax (Appeals)-17, Chennai, dated 30.03.2016, for the assessment years 2010-11 to 2012-13. The assessee has also filed cross-objections against the very same order of the CIT(Appeals). Therefore, we

heard both the appeals and cross-objections together and disposing of the same by this common order.

2. The only issue arises in all the appeals of the Revenue is with regard to claim of exemption under Section 11 of the Income-tax Act, 1961 (in short 'the Act'). The Assessing Officer disallowed the claim of the assessee for exemption under Section 11 of the Act on the ground that the assessee has collected subscription fee annually and also collected life membership fee. The Assessing Officer also found that the activities of the assessee are commercial in nature, hence, proviso to Section 2(15) of the Act would come into operation. This issue was examined by this Tribunal in the assessee's own case for the assessment year 2009-10 in I.T.A. No.712/Mds/2014 dated 14.01.2016. In fact, the CIT(Appeals), after reproducing the order of this Tribunal for the assessment year 2009-10, allowed the claim of the assessee under Section 11 of the Act. This Tribunal has taken a similar view in the case of Tamil Nadu Cricket Association v. DIT(E) 42 ITR(Trib) 546. In view of the above, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

3. The cross-objections of the assessee is only in respect of depreciation on the assets and the cost of which was allowed as application of income under Section 11 of the Act. In fact, this was also elaborately examined by this Tribunal in the case of Tamil Nadu Cricket Association (supra) and observed at para 12 of its order as follows:-

“12. Apart from that, when the assessee claims the cost of the capital expenditure as exemption under Section 11 of the Act, then the cost of the capital asset becomes NIL. Admittedly, depreciation under Section 32 of the Act has to be allowed only on written down value of the asset. When the written down value of the asset becomes NIL since the entire cost was allowed as application of income under Section 11 of the Act, this Tribunal is of the considered opinion that there cannot be any further claim for deduction under Section 32 of the Act. In view of the above, this Tribunal is of the considered opinion that the assessee is not eligible for deduction under Section 32 of the Act towards depreciation. However, it is made clear that the assessee is eligible for exemption under Section 11 of the Act for all the assessment years under consideration.”

4. A similar view was also taken by this Tribunal in the case of Music Academy Madras v. DDIT(E) in I.T.A. No. 1098/Mds/2015 dated 22/4/2016. Since exemption under Section 11 of the Act falls under Chapter III of the Act, the same would override the provisions of Section 32 which falls under Chapter IV of the Act. In view of the

above, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

5. In the result, both, the appeals of the Revenue as well as the cross-objections of the assessee are dismissed.

Order pronounced on 13th April, 2017 at Chennai.

sd/-

(डि.एस. सुन्दर सिंह)

(D.S. Sunder Singh)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 13th April, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-17, Chennai-34
4. आयकर आयुक्त/CIT (Exemptions), Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.