

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'F' : NEW DELHI)**

**BEFORE SHRI N.K. SAINI, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.6593/Del./2015
(ASSESSMENT YEAR : 2011-12)**

ITO (E), vs. Andhra Pradesh Technology Development
Trust Ward 1(1), & Promotion Centre,
Delhi. 23926, Institutional Area,
Lodhi Road,
New Delhi – 110 003.

(PAN : AAATA5160B)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None
REVENUE BY : Shri Atiq Ahmad, Senior DR

Date of Hearing : 18.09.2017
Date of Order : 21.09.2017

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

The appellant, Andhra Pradesh Technology Development & Promotion Centre (hereinafter referred to as 'the assessee'), by filing the present appeal, sought to set aside the impugned order dated 11.09.2015 passed by the Commissioner of Income-tax (Appeals)-40, New Delhi qua the assessment year 2011-12 on the grounds inter alia that :-

“On the facts and in the circumstances of the case and in law, the Ld. CIT (A) has erred in allowing the appeal of the assessee by ignoring the fact that it has not been able to establish that the activities w.e.t. intellectual property rights has been for the alleviation of poverty and benefitted any particular class of poor people through any concrete evidences.”

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : assessee is a society registered under Societies Registration Act and also registered under section 12AA (1) of the Income-tax Act, 1961 (for short ‘the Act’) vide order dated 23.06.2000, which is promoted by Government of Andhra Pradesh, Technology Information, Forecasting and Assessment Council and Confederation of Indian Industry. The assessee is also involved in providing and facilitating the skill development and training at community level, waste land development with sustainable livelihood based on bamboo plantation and value added products for housing, food, fodder and bio-fuels in order to help in improving the unhealthy and unhygienic conditions of rag-packers waste collectors and re-cyclers by implementing municipal solid waste management projects. Assessee is also providing better employment opportunities, promoting cottage and rural industries, providing help in marketing their products and focus on human resource development and upgradation.

3. Assessing Officer denied benefit of the exemption u/s 11(1) of the Act to the assessee and assessed the total income at Rs.50,43,180/- u/s 143(3) of the Act.
4. Assessee carried the matter by way of filing appeal before the Id. CIT (A) who has allowed the same. Feeling aggrieved, the Revenue has come up before the Tribunal by way of challenging the impugned order passed by Id. CIT (A).
5. Assessee has not preferred to put in appearance despite issuance of the notice and consequently, we proceeded to decide the present appeal with the assistance of the Id. DR as well as on the basis of documents available on the file.
6. We have heard the Id. Departmental Representative for the revenue to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.
7. Undisputedly, the assessee is involved in providing and facilitating the skill development and training at community level, waste land development with sustainable livelihood based on bamboo plantation and value added products for housing food, fodder and bio-fuels in order to help in improving the unhealthy and unhygienic conditions of rag-packers waste collectors and recyclers by implementing municipal solid waste management

projects. Assessee is also providing better employment opportunities, promoting cottage and rural industries, providing help in marketing their products and focus on human resource development and upgradation. It is also not in dispute that the assessee society is registered u/s 12AA (1) of the Act. It is also not in dispute that the assessee was first time denied the benefit of exemption u/s 11(1) of the Act in AY 2009-10 on the ground that the assessee is involved in trade, commerce or business but the benefit of exemption u/s 11 (1) was restored by the Id. CIT (A) in appeal filed by the assessee by holding that the assessee is not involved in any trade, commerce or business or rather involved in providing help to the poor.

8. When the Revenue has categorically held in AY 2009-10 vide order dated 17.05.2012 passed by Id. CIT (A) that the assessee is not involved in any trade, commerce or business rather providing help to the poor and there is no change in objects and activities of the assessee's society, taking diametrically opposite view on the basis of conjectures and surmises, is not sustainable.

9. Merely denying the benefit of exemption u/s 11(1) of the Act by invoking the provisos of section 2(15) on the ground that the assessee has received fee for intellectual property rights etc. to the tune of Rs.87,53,561/- is not sustainable in view of the decision

rendered by *Hon'ble Delhi High Court in case of India Trade Promotion Organisation vs. DGIT (E) – (2015) 53 taxmann.com 404 (Delhi)*, also relied upon by the Id. CIT (A), because when objects and activities being carried out by the assessee society are in accordance with its aims and objects in order to achieve the charitable goal, it cannot be said to be into any trade, commerce or business by any stretch of imagination.

10. In view of what has been discussed above, we find no illegality or perversity in the impugned order passed by the Id. CIT (A), hence present appeal filed by the Revenue is dismissed.

Order pronounced in open court on this 21st day of September, 2017.

**Sd/-
(N.K. SAINI)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 21st day of September, 2017
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)-40, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**