

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D', NEW DELHI**

Before Sh. N. K. Saini, AM and Sh. K. N. Chary, JM

ITA No. 92/Del/2016 : Asstt. Year : 2011-12

Income Tax Officer (E), Ward-1(3), New Delhi-110002	Vs	Consultancy Development Centre, IInd Floor, Zone-IV B, India Habitat Centre, Lodhi Road, New Delhi-110003
(APPELLANT)		(RESPONDENT)
PAN No. AAATC4020A		

Assessee by : Sh. R. R. Maurya, Adv.

Revenue by : Sh. Sampornanand, Sr. DR

Date of Hearing : 28.09.2017	Date of Pronouncement : 28.09.2017
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ORDER

Per N. K. Saini, AM:

This is an appeal by the department against the order dated 06.10.2015 of Id. CIT(A)-40, New Delhi.

2. The only effective ground raised in this appeal reads as under:

“1. On the facts and circumstances of the case the Ld. CIT(A) has erred in allowing the benefit of section 11 & 12 of the Act, ignoring that activities of the trust were not within the purview of section 2(15) of the Act, 1961, during the year.”

3. The facts of the case in brief are that the assessee is a charitable society and registered under the Societies Registration Act, 1860 vide

order dated 15.01.1986 and is also registered u/s 12AA(1) of the Income Tax Act, 1961 (hereinafter referred to as the Act) vide order dated 12.03.1988. The assessee society is promoted by Ministry of Science and Technology for promoting the consultancy services for projects etc in the country, the clients of the assessee society are generally all the Government departments and the income is mostly from the Government. The AO denied the exemption u/s 11(1) of the Act to the assessee mainly on the ground that the assessee was engaged in trade & commerce and as such was hit by the mischief of proviso of Section 2(15) of the Act.

4. Being aggrieved the assessee carried the matter to the Id. CIT(A) who allowed the claim of the assessee for the reason that his predecessor allowed the exemption u/s 11(1) of the Act vide order dated 24.01.2013 and 23.12.2014 for the assessment years 2009-10 and 2010-11 respectively.

5. Now the department is in appeal. The Id. Counsel for the assessee at the very outset stated that this issue is squarely covered in favour of the assessee and against the department vide order dated 16.02.2017 of the ITAT Delhi Bench -Bø New Delhi in ITA No. 2173/Del/2013 for the assessment year 2009-10 in assessee's own case (copy of the said order was furnished which is placed on record).

6. In his rival submissions the Id. DR although supported the order of the AO but could not controvert the aforesaid contention of the Id. Counsel for the assessee.

7. We have considered the submissions of both the parties and perused the material available on the record, it is noticed that a similar issue have identical facts has been adjudicated by the ITAT Delhi Bench -Bø New Delhi in ITA No. 2173/Del/2013 for the assessment year 2009-10 in assessee's own case vide order dated 16.02.2017. The relevant findings are given in para 5 of the said order which read as under:

“5. We have carefully considered the rival contentions and also perused the order of lower authorities. The Id DR could not controvert the fact that the issue is not covered by the decision of Hon'ble Delhi High Court in case of Bureau of Indian Standards reported at 358 ITR 78 as well as the circular of the CBDT No. 11/2008. The Hon'ble Delhi High Court in GSI India Vs. DGIT 360 ITR 138 has also explained the fact of amendment w.e.f. 01.04.2009 wherein it has been held that the amended provisions applies only in the case where the activities of the assessee falls in the category of "objects of general public utility". In the present case the assessee is carrying on education and training programme for the purposes of for consultancy development profession in the area specified by department of scientific and industrial research under the Ministry of Science and Technology. Therefore, the activity of the assessee is falling under the definition of educational activities to which the amended provisions do not apply. Even otherwise charging a nominal fees for the use of the appellant societies facilities. It does not reflect business attitude nor indicate profit oriented intent. In

view of this we do not find any infirmity in the order of the Id CIT(A) and hence, dismiss the appeal of the revenue.

8. So, respectfully following the aforesaid referred to order dated 16.02.2017, we do not see any merit in this appeal of the department.

9. In the result, the appeal of the department is dismissed.

(Order Pronounced in the Court on 28/09/2017)

Sd/-
(K. N. Chary)
JUDICIAL MEMBER

Sd/-
(N. K. Saini)
ACCOUNTANT MEMBER

Dated: 28/09/2017

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR