

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री भागचंद, लेखा सदस्य के समक्ष  
BEFORE: SHRI VIJY PAL RAO, JM & SHRI BhAGCHAND, AM

आयकर अपील सं./ITA No. 360/JP/2017  
निर्धारण वर्ष / Assessment Year : 2012-13

The ITO(E), Ward-1, Jaipur.	बनाम Vs.	M/s Rajasthan Khadya Padarth Vyapar Sangh, B-20, 1 <sup>st</sup> Floor Chandpole Bazaar, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAAAR0336D		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri S.L. Poddar (Adv.)  
राजस्व की ओर से / Revenue by : Shri R.A. Verma (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 17/10/2017  
उदघोषणा की तारीख / Date of Pronouncement: 03/11/2017

आदेश / ORDER

PER: VIJAY PAL RAO, J.M.

This appeal by the Revenue is directed against the order of dated 09.02.2017 of CIT (A)-5, Jaipur for A.Y. 2012-13. The Revenue has raised the following grounds as under:-

*"1. On the facts and circumstances of the case and in law the CIT(A) has erred in deleting the disallowance of Rs. 29,72,642/- by holding that it is not the case of the AO that personal or non-genuine expenses have been debited in the form of Maha Sammelan expenses whereas the AO has disallowed these expenses on the ground of non-registration u/s 12AA and also on account of not for the benefit of public at large.*

*2. On the facts and circumstances of the case and in law the CIT(A) has erred in allowing the amount of Rs. 35,00,000/- set apart u/s 11(2), in spite of the fact the assessee registration granted u/s 12AA by Hon'ble ITAT, was challenged before the Hon'ble High Court which is pending.*

*3. On the facts and circumstances of the case and in law the CIT(A) has erred in deleting Rs. 1,89,955/- being 15% of surplus as the order of ITAT in respect of granting registration u/s 12AA has been challenged before Hon'ble High Court."*

2. The assessee is a trade association and filed an application for registration u/s 12AA of the Act. The Id. CIT(Exemption), Jaipur vide its order dated 18.03.2015 dismissed the application for registration u/s 12AA. Thereafter the Assessing Officer computed assessment u/s 143(3) whereby the assessee was denied the exemptions u/s 11(1) and consequently the income of the assessee was determined at Rs. 64,45,893/-.The assessee challenged the action of the AO before the CIT(A). The Id. CIT noted the fact that this Tribunal vide order dated 27.09.2016 granted registration to the assessee and consequently the assessee was eligible for the benefit u/s 11(1) of the Act. Hence, the Id. CIT(A) deleted the addition made by the AO. Aggrieved by the order of the Id. CIT(A) the Revenue has filed this appeal.

3. We have heard the Id. DR as well as Id. AR and considered the relevant material on record. The Assessing Officer has made various

additions and assessed receipt of the assessee to tax. In view of the fact that the application for registration u/s 12AA was rejected by the Id. CIT(E) and subsequently this Tribunal vide order dated 29.09.2016 in ITA No. 335 of 2015 set aside the order of the Id. CIT(Exemption) and directed the Id. CIT(E) to grant registration to the assessee association u/ 12AA of the Act. The Revenue challenged the said decision of the Tribunal granting registration u/s 12AA to the assessee before the Hon'ble Rajasthan High Court but could not succeed as the Hon'ble High Court vide its order dated 10.07.2017 has dismissed the appeal of the Revenue. Thus the decision of the Tribunal granting registration u/s 12AA has been upheld by the Hon'ble jurisdictional High Court. The Revenue has raised the grounds in the present appeal that the decision of the Tribunal granting registration u/s 12AA has been challenged before the Hon'ble High Court. In view of the fact that the appeal of the Revenue has been dismissed by the Hon'ble Rajasthan High Court there is no merit and substance in the present appeal of the Revenue. Hence, we do not find any error or illegality in the impugned order by the Id. CIT (Appeal) in granting the benefit u/s 11(1) of the Act.

In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 03/11/2017

Sd/-  
(भागचंद )  
(Bhagchand)  
लेखा सदस्य / Accountant Member

Sd/-  
(विजय पाल राव)  
(Vijay Pal Rao)  
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 03/11/2017.

\*Santosh.

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- The ITO(E), Ward-1, Jaipur.
2. प्रत्यर्थी / The Respondent- M/s Rajasthan Khadya Padarth Vyapar Sangh, B-20, 1<sup>st</sup> Floor Chandpole Bazaar, Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 360/JP/2017}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar