

आयकर अपीलीय अधिकरण, दिल्ली, न्यायपीठ, 'जी', दिल्ली।

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "G", DELHI**

श्री एन.के. सैनी, लेखा सदस्य एवं
श्री जोगिन्दर सिंह, न्यायिक सदस्य, के समक्ष

**Before Shri N.K. Saini, Accountant Member and
Shri Joginder Singh, Judicial Member,**

**ITA No.5202 /Del/2016
Assessment Year: 2010-11**

ITO(E), Ward-2(3), Room No.2407, E-2 Block, Dr S. P. Mukherjee Civic Centre, New Delhi-110002	बनाम/ Vs.	M/s Young Women's Christian Association of Delhi, Ashok Road, New Delhi-110001
(राजस्व /Revenue)		(निर्धारिती /Assessee)
PAN. No. AAATY0027H		

राजस्व की ओर से / Revenue by	Shri S.S. Rana-CIT DR
निर्धारिती की ओर से / Assessee by	Shri Arta Trana Panda

सुनवाई की तारीख / Date of Hearing :	07/11/2017
आदेश की तारीख /Date of Order:	07/11/2017

आदेश / O R D E R

Per Joginder Singh (Judicial Member)

The Revenue is aggrieved by the impugned order dated 28/07/2016 of the Ld. First Appellate Authority, New Delhi, allowing exemption u/s 11(1) of the Income Tax Act, 1961 (hereinafter the Act), ignoring the fact that the activities of the assessee is in the nature of trade, commerce/business, which falls under the "Advance of any other objects of general public utility and hit by the proviso to section 2(15) of the Act.

2. During hearing, Shri S.S. Rana, ld. CIT-DR, defended the addition made by the Assessing Officer, advancing arguments, which is identical to the ground raised. On the other hand, Shri Arta Trana Panda, ld. Counsel for the assessee, defended the impugned order.

2.1. We have considered the rival submissions and perused the material available on record. The facts, in brief, are that the assessee society is registered under Societies Registration Act to fulfill the basic aims and objects of the society. The assessee is rooted in the

Christian faith and endeavour to promote the full development of women/girls irrespective of race, culture and creed. The assessee society is registered u/s 12A of the Act by the competent authority. The assessee declared nil income in its return, filed on 04/03/2001, which was accompanied by audit report in form no.10B for exercising option u/s 11(2) of the Act. The return of the assessee was processed u/s 143(1) of the Act and thereafter the case of the assessee was picked up for scrutiny, therefore, notice u/s 143(2) was issued to the assessee. In compliance of the same, the assessee attended the proceedings and filed information/documents/books of accounts along with bills/vouchers, with respect to the expenditure incurred and evidence of having earned income from different heads as is evident from assessment order itself. The assessee showed surplus/deficit in its accounts from which the Ld. AO noted that the assessee did not include income of women training institute, therefore, applying the proviso to section 2(15) of the Act, the assessment was framed.

2.2. On appeal, before the Ld. CIT(A), the factual matrix was considered and the following the decision of the Tribunal for A.Y. 2009-10, the Ld. AO was directed to allow exemption on the earning from unrecognized courses as well, as being included in the definition of 'education'. The Revenue is aggrieved and is in appeal before this Tribunal.

2.3. If the observation made in the assessment order, conclusion drawn in the impugned order, and the material facts, available on record, are kept in juxtaposition and analyzed, there is no dispute to the fact that identically for AY 2009-10, in the case of assessee itself, the Tribunal vide order dated 15/02/2016 (ITA No.1019/Del/2013) held that the unrecognized courses are also comes within the meaning of education or in other words, it can be said that the charitable purposes includes relief to the poor, education (yoga), medical relief, preservation of environment and preservation of monuments or placed or objects of artistic or historic interest and the advancement of any other objection of general public utility. Admittedly, substitution was made by the Finance Act, 2015 w.e.f.

01/04/2016 as per which the advancement of any other object of general public utility shall not be concealed as charitable, if it involves the, carrying on any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business for a cess or fee or any other consideration, irrespective of the nature of use or application or retention of the income from such activity. We observe here that no differentiation has been made with respect to education whether the courses are recognized or unrecognized. We are of the view, unless and until specific language is used in the section differentiating the courses (recognized or unrecognized), the plain language used in the section has to be considered. The Ld. AO, while making the addition taxed the income on the ground that the receipts are from non-recognized courses, therefore, it is for non-charitable purposes. The claim of the assessee is that the deposits made by the assessee are wholly used for charitable purposes and neither the principal nor the trustees are in a position to utilized the deposits for any other purposes except charitable purposes. It is also noted that even in the

assessment order, the Ld. AO nowhere pointed out that the receipts earned by the assessee were utilized for non-charitable purposes. Under the provisions of Explanation-2 of Section-11(1) accumulation of the amount of income, derived from property held under the trust, are permitted to be accumulated u/s 11(2) and under the provision of section 11(1) of the Act, the earning of the assessee from property held for charitable purposes is permitted to be accumulated up to the specified limit of its gross receipts. The assessee society is imparting education to the poor woman for providing vocational and non-vocational education, which has been considered by the Tribunal in its own case for AY 2009-10. The proviso to section-2(15) is applicable only in a situation, when the activities of the assessee are found against the purposes/act and the primary objective even if it is unrecognized by the university/board, it cannot be said that the education is not being imparted. Thus, we don't find any infirmity in the conclusion of the Ld. CIT(A), following the order of the Tribunal for A.Y. 2009-10 and that too in the absence of

any contrary facts, we find no merit in the ground raised by the Revenue, therefore, the impugned appeal is dismissed.

Finally, the appeal of the Revenue is dismissed.

This order was pronounced in the open court in the presence of the ld. representative from both sides at the conclusion of the hearing on 07/11/2017

Sd/-

(N. K. Saini)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

Delhi; दिनांक Dated : 07/11/2017

Shekhar, P.S./नि.स.

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Delhi
4. आयकर आयुक्त / CIT(A)- , Delhi
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,/ DR, ITAT, Delhi
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण,/ ITAT, Delhi