

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

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

ITA No. 4306/Del/2016 : Asstt. Year : 2010-11

Income Tax Officer(E), Ward-1(2), New Delhi	Vs	M/s Institute of Peace and Conflict Studies, B-7/3, Safdarjung Enclave, New Delhi-110029
(APPELLANT)		(RESPONDENT)
PAN/GIR No. AAAAI0747F		

Assessee by : None

Revenue by : Sh. Arun Kumar Yadav, Sr. DR

Date of Hearing : 20.12.2017

Date of Pronouncement : 26.02.2018

ORDER

Per N. K. Saini, AM:

This is an appeal by the department against the order dated 09.05.2016 of the Id. CIT(A)-40, New Delhi.

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

“On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in allowing set off of brought forward deficit of Rs.35,47,088/- against the income of current year by ignoring the fact that in the case of charitable trusts/institutions, their income is assessable under self-contained code mentioned in section 11 to 13 of the Income Tax Act, 1961 and provisions of section 11, 12 & 13 of the I.T. Act do not envisage set off of deficit/excess expenditure of earlier assessment years against the income of current year.”

3. Facts of the case in brief are that the assessee filed the return of income on 24.09.2010 which was processed u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred to as the Act) on

06.12.2010. Later on, the case was selected for scrutiny. The AO noted that the assessee was registered u/s 12A(a) of the Act vide order dated 28.09.2000 of the Id. DIT(E) and the objects of the assessee were to work as an independent think tank, so as to focus on the study of national security and included non-military threat and that the assessee worked closely with the leading strategic thinkers, former members of Foreign Services and Armed Forces, Central Police Organization, the Academic community and the Media. The AO clearly mentioned that objects and activities of the assessee were charitable within the meaning of Section 2(15) of the Act. Accordingly, exemption u/s 11 of the Act allowed to the assessee. In this manner, the assessment u/s 143(3) of the Act framed at Nil income vide order dated 13.03.2013. Later on, the AO passed an order u/s 154 of the Act giving effect to the revenue objection of Audit Wing that the assessee had claimed and was allowed brought forward deficit of earlier years of Rs.35,47,088/- and that there was no provision in the Act for set off brought forward deficit of the assessee from its income of the current year as per the provision of Section 11 of the Act. Accordingly, the AO made the addition of Rs.35,47,088/-.

4. Being aggrieved the assessee carried the matter to the Id. CIT(A) and submitted that the brought forward deficit of earlier years had been adjusted as utilization in the assessment year 2009-10 as per following details:

<i>S. No.</i>	<i>Assessment Year</i>	<i>Amount b/f</i>	<i>Amount adjusted</i>	<i>Amount c/f</i>
1.	2008-09	22,76,678	22,76,678	-
2.	2009-10	17,92,603	12,70,410	5,22,193

And that those amounts were allowed as application in the assessment order passed u/s 143(3) of the Act. The reliance was placed on the following case laws:

- *DIT Vs Raghuvanshi Charitable Trust 197 Taxman 170 (Del.)*
- *CIT Vs Sh. Plot Swetamber Murti Pujak Jain Mandal (1995) 211 ITR 293 (Guj.)*
- *CIT Vs Institute of banking Personnel Selection (IBPS) (2003) 264 ITR 1102 (Bom.)*
- *Siddaramanna Charities Trust Vs CIT (1974) 96 ITR 275 (Mys)*
- *CIT Vs Matriseva Trust (2000) 242 ITR 203 (Mad.)*
- *CIT Vs Maharana of Mewar Charitable Foundation (1987) 164 ITR 439*

5. The ld. CIT(A) after considering the submissions of the assessee directed the AO to consider brought forward deficit of earlier years amounting to Rs.35,47,088/- as utilization for the year under consideration by observing in para 5 of the impugned order as under:

“5. I have considered the facts, the order of the Assessing Officer and the submissions made by the assessee.

I find merit in the submission of the Assessee appellant society is a non profitable & charitable organization registered under section 12A of the Act and is working towards peace and dispute resolution. It's main objects include discussion and research on problems of national security and impact of defence measures in the economic, political and social sphere.

This question of brought forward deficit as utilization u/s 11 has been considered by a number of courts.

The Jurisdictional Delhi High Court in the case of Director of Income-tax v. Raghuvanshi Charitable Trust 197 TAXMAN 170 (Delhi) wherein the Hon'ble court has held this question in favour of the assessee by holding that the adjustment of deficit of current year against income of subsequent year would amount to application of income of trust for charitable purposes in subsequent year within meaning of section 11(1)(a) .

The Hon'ble court has also referred to the decisions of other five high courts in this connection. The relevant paras are extracted at para above 4 which are not being repeated here for sake of brevity.

This decision of the Jurisdictional high court and thus the assessee's case would be squarely covered by it.

The Assessing officer is therefore directed to allow the brought forward deficit of earlier years of Rs.35,47,088 as utilization in AY 2010-11.”

6. Now the department is an appeal. The ld. DR supported the order of the AO and reiterated the observations made in the assessment order dated 26.03.2015. Nobody was present on behalf of the assessee.

7. We have considered the submissions of the ld. DR and perused the material available on the record. In the present case, it is noticed that the ld. CIT(A) decided the appeal of the assessee by following the ratio laid down by the Honøble Jurisdictional High Court in the case of DIT Vs Raghuvanshi Charitable Trust (supra) and no contrary decision was brought on record by the revenue department. Therefore, we do not see any valid ground to interfere with the findings given by the ld. CIT(A) in the impugned order.

Accordingly, we do not see any merit in this appeal of the department.

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

(Order Pronounced in the Court on 26/02/2018)

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

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

Dated: 26/02/2018

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR