

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

श्री विजय पॉल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA. No. 25/JP/2018
निर्धारण वर्ष / Assessment Years : 2012-13

Rajasthan Hindi Granth Academy, 01, Institutional area, Jhalana, Jaipur	बनाम Vs.	ACIT (Exemption), Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAACR8838E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Shambhu Lal Gupta (CA)
राजस्व की ओर से / Revenue by : Shri K. C. Gupta (JCIT)

सुनवाई की तारीख / Date of Hearing : 22/05/2018
उदघोषणा की तारीख / Date of Pronouncement : 24/05/2018

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A)-1, Jodhpur dated 25.09.2017 for Assessment Year 2012-13 wherein the assessee has raised following ground of appeal:-

"1. That based on the facts and circumstances of the case the Id. CIT Appeals-1 has grossly erred in law as well as fact of the case in confirming the action of the AO for not treating the institution as educational institution and denial of exemption u/s 10(23c)(iiiab) of the Income Tax Act 1961."

2. Briefly stated, the facts of the case are that the appellant "Rajasthan Hindi Granth Academy" is an autonomous body established/constituted for publication of books in Hindi language for post graduate students in Universities in India as per the Education Policy Decision of the Ministry of Education & Social Welfare, Department of Education, Government of India. The Academy is functioning under the arrangement, control and supervision of the Government of Rajasthan. The Academy is carrying on its activities under Centrally Sponsored Scheme of Production of Books at the University Level in different Languages, by the Creation of a Revolving Fund as per enclosed letter of January 21, 1974 of "Shiksha Aur Samaj Kalyan Mantralaya (Shiksha Vibhag), New Delhi.

3. For the year under consideration, the assessee filed its return of income declaring income at Nil on 18.11.2014 by showing the surplus of Rs. 98,70,134/- over expenses and claimed the exemption u/s 10(23C)(iiiab) and 10(23C) (iv) as well as the benefit u/s 10,11 and 12. The Id. AO disallowed the exemption by stating that the activity of the trust are in the nature of trade, commerce or business and not educational. Thus the AO denies the exemption u/s 10(23C)(iiiab) and 10(23C) (iv) as well as the benefit u/s 10, 11 and 12 and added Rs. 98,70,134/- in the income of assessee. On appeal before the Id CIT (Appeal), the Id. CIT(Appeal) also rejected the claim of exemption u/s 10(23C)(iiiab) and allowed exemption u/s 11. Now, the assessee is in appeal against the denial of exemption under 10(23C)(iiiab) of the Act.

4. During the course of hearing, the Id. AR submitted that the similar issue has been decided by Hon'ble High Court of Rajasthan (*D.B Income Tax Appeal no 302/2016 in order dated 01.11.2017*) in the case

of assessee itself for the assessment year 2010-11. It was submitted that in the order, the Hon'ble High Court clearly gives its opinion that this academy is running only with a view to publish educational books and accepted that this is only for purpose of academy which is educational in nature and will entitle for the benefit u/s 10(23)(iiiab). It was submitted that the facts and circumstances of the case are exactly same in this year and the said decision of the Hon'ble Rajasthan High Court supports the case of the assessee.

5. The Hon'ble Rajasthan High Court in the case of Rajasthan Hindi Granth Academy vs. DCIT, Circle-05, Jaipur vide its order dated 1.11.2017 has held as under-

*"10. Before proceeding with the matter, it will not be out of place to mention that Rajasthan Hindi Granth Academy is established by the State Government to see that the books are available to the student of the educational institutions at the grass root level, therefore, while considering the matter, we have considered that mainly the substantive amount out of receipts of Rs. 1,81,44,567/-, Rs. 1,24,10,000/- is received by the assessee from State Government by way of subsidy. **Even if, name of the institution i.e. Rajasthan Hindi Granth Academy is considered, it is established that it is for the purpose of publication of Hindi Granth Academy is for education. In that view of the matter, in our considered view, in view of decisions referred by Mr. Ranka, this is an educational institution activity.***

11. In that view of the matter, we are of the opinion that this academy is running only with a view to publish educational books and

we have no hesitation in accepting the submissions of Mr. Ranka that this is only for the purpose of academy which is educational in nature.

12. In that view of the matter, the assessee will be entitled for the benefit u/s 10(23)(iiiab). Even from the table, looking to the turnover, the profit is negligible, therefore, it is clear that the institution has no profit motive.

13. In view of the above, the issue is required to be answered in favour of the assessee and against the department."

6. The Id DR is heard who has relied on the order of the lower authorities.

7. We have heard the rival contentions and perused the material available on record. The limited issue under consideration is whether the assessee is eligible for exemption u/s 10(23c)(iiiab) of the Act which provides for exemption to any university or other educational institution existing solely for educational purposes and not for the purposes of profit and which is wholly or substantially finance by the Government. The term "substantially financed by the Government" has been defined in Rule 2BBB which reads as under:

"2BBB. For the purposes of sub-clauses (iiiab) and (iiiac) of clause (23C) of Section 10, any university or other educational institution, hospital or other institution referred therein, shall be considered as being substantially financed by the Government for any previous year, if the Government grant to such university or other educational institution, hospital or other institution exceeds fifty per cent of the total

receipts including any voluntary contributions, of such university or other educational institution, hospital or other institution, as the case may be, during the relevant previous year."

8. In the matter before the Hon'ble Rajasthan High Court which was pertaining to AY 2010-11, 68.4% of the receipts were in the form of grant-in-aid from the Government of Rajasthan towards publication of books. During the year under consideration, it has been stated that 63.10% of the total receipts are in the form of grant-in-aid from the Rajasthan Government. In light of the same, we find that the facts and circumstances of the case are exactly identical and the decision of the Hon'ble Rajasthan High Court supports the case of the assessee for the year under consideration. Following the decision of the Hon'ble Rajasthan High Court in assessee's own case, the assessee is held eligible for exemption u/s 10(23c)(iiiab) for the impugned assessment year.

In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 24/05/2018.

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

Sd/-
(विक्रम सिंह यादव)
(Vikram Singh Yadav)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur
दिनांक / Dated:- 24/05/2018

*Ganesh Kr.

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

1. अपीलार्थी / The Appellant- Rajasthan Hindi Granth Academy, Jaipur
2. प्रत्यर्थी / The Respondent- ACIT(E), 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. 25/JP/2018 }

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar