

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

श्री विजय पाल राँव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM AND SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 289/JP/2018
निर्धारण वर्ष/Assessment Year : 2014-15.

The DCIT (Exemption) Jaipur.	बनाम Vs.	M/s. Urban Improvement Trust, UIT Building, Near CAD Circle, Kota.
स्थायी लेखा सं./जीआईआर सं./PAN No. AAALU 0110 D		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Prakul Khurana (Advocate)
राजस्व की ओर से/ Revenue by : Shri Varinder Mehta (CIT)

सुनवाई की तारीख/ Date of Hearing : 19.06.2018.
घोषणा की तारीख/ Date of Pronouncement : 21/06/2018.

आदेश / ORDER

PER VIJAY PAL RAO, JM :

This appeal by the revenue is directed against the order dated 18th December, 2017 of Id. CIT (A)-3, Jaipur for the assessment year 2014-15. The revenue has raised the following grounds :-

- " (a) On the facts and circumstances of the case and in law, the Id. CIT (Appeals) erred in allowing benefit of section 10(20) of the Act, by relying upon order of Hon'ble High Court of Rajasthan, Jaipur in the case of UIT, Kota in DBIT No. 73/2011 and 357/2011 dated 25.07.2017, in spite of the facts that income of UIT is not exempt after insertion of explanation 10(20) by the Finance Act, 2002 w.e.f. 01.04.2003.
- (b) On the facts and circumstances of the case and in law the Id. CIT (Appeals) erred in allowing benefit of section 10(20) of the Act, by relying upon the decision of Hon'ble High Courts in the

case of UIT, Kota in DBIT No. 73/2011 & 357/2011 dated 25.07.2017 which has not reached its finality.

- (c) On the facts and circumstances of the case and in the Id. CIT (Appeals) has erred in ignoring the facts that assessee failed to maintain its books of accounts as well as getting audit of the same in accordance to the provision of section 12(A)(1)(b) of the Act.
- (d) Any other question of law as deemed fit in the facts and circumstances of the case may also be framed before the Hon'ble Tribunal in the interest of justice.

2. The assessee is an Urban Improvement Trust formed by Government of Rajasthan under the Rajasthan Improvement Act, 1959 with the purpose of carrying out the improvement of urban area in the city of Kota. The AO denied the benefit of exemption under section 10(20) of the IT Act while framing the assessment under section 143(3). The assessee challenged the action of the AO before the Id. CIT (A) and submitted that for the assessment years 2003-04 and 2004-05 this Tribunal allowed the claim of the assessee by holding that the assessee trust is covered within the exemption under section 10(20). The Hon'ble Jurisdictional High Court in DBIT Appeal No. 73/2011 and 357/2011 vide judgment dated 25.07.2017 has upheld the order of the Tribunal and dismissed the appeal filed by the revenue. Thus the assessee claimed that after the omission of section 10(20A) by Finance Act, 2002 with effect from 01.04.2003 the assessee is eligible for exemption under section 10(20) of the IT Act. The Id. CIT (A) accepted the claim of the assessee by following the decision of Hon'ble Jurisdictional High Court in assessee's own case in para 5.3 as under :-

"5.3. I have carefully considered the observation made by the Assessing Officer in the assessment order; submission filed by the A/R of the appellant and cited case laws. I find that in the appellant own case the Honourable Rajasthan High Court vide D.B.T.T.A. 73/2011 and 357/2011 dated 25/07/2017 held that the appellant trust is a local authority eligible for exemption under section 10(20) of the I.T. Act.

Therefore following the above decision, the Assessing Officer is directed to allow the exemption u/s 10(20) of the I.T. Act. Accordingly this ground of appeal is allowed."

3. We have heard the Id. D/R and the Id. A/R and considered the relevant material on record. At the outset, we note that the Hon'ble Jurisdictional High Court in assessee's own case vide judgment dated 25th June, 2017 in DBIT Appeal Nos. 73/2011 and 357/2011 has held in para 15 to 19 as under :-

"15. It is true that the functions which are carried out by the assessee are statutory functions and carry on for the benefit of the State Government for urban development therefore, in our considered opinion, the functions carried out by the authority is a supreme function and fall within the activity of the State Government.

16. In that view of the matter, the judgments which are strongly relied upon by counsel for the department are of no help in the facts of the case as the case relied upon by the department was in respect of industrial corporation which was under the statute for the purpose of making profit. The fees and other charges which are covered are statutorily for the development of the Urban area. In that view of the matter, the judgment which sought to be relied upon by the counsel for the respondents, in or considered opinion, would be of importance

and the functions which are carried out by the assessee is statutory function. In our considered opinion, under clause-10(20) & Sub-clause (3) Municipal Committee and District Board are legal entity entrusted the function of the Government within the control or management of the municipal or local authority and will try to held the assessee.

17. In that view of the matter, the reliance placed by counsel for the department regarding 10(20) and explanation A will not make any difference. Taking into consideration income of authority is under constitution of India vide order enacted either for the purpose of dealing with or setting up the housing scheme for the purpose of planning and development of the improvement of the cities, town and villages or both for which the authority are created to carry out the function of State which are sovereign whereas the urban development and calculation of development charges will fall under the development charges.

18. In that view of the matter, deletion of 20A will not make difference in case of assessee. In our considered opinion, clause-3 will come in the help of the assessee. In that view of the matter, we are considered opinion, that the authority assessee is a local authority for the purpose of carrying out of the improvement and development function of the State.

19. In that view of the matter, the issue is required to be answered in favour of the assessee against the department. In view of the answer, other issues are become academic, therefore, we are not deciding those issue."

Accordingly, by following the decision of Hon'ble Jurisdictional High Court in assessee's own case, we hold that the assessee is eligible for benefit under section 10(20) of the IT Act being a local authority for carrying out the improvement and development functions of the State. Hence we do not find any error or illegality in the impugned order of Id. CIT (A).

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

Order is pronounced in the open court on 21/06/2018.

Sd/-
(विक्रम सिंह यादव)
(VIKRAM SINGH YADAV)
लेखा सदस्य/Accountant Member

Sd/-
(विजय पाल राँव)
(VIJAY PAL RAO)
न्यायिक सदस्य/Judicial Member

Jaipur

Dated:- 21/06/2018.

Das/

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

1. The Appellant- The DCIT (Exemption), Jaipur.
2. The Respondent –M/s. Urban Improvement Trust, Kota.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 289/JP/2018)

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant. Registrar

