

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "D" NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

I.T.A. No.582/DEL/2016
Assessment Year: 2011-12

ITO(E), Ghaziabad.	vs.	M/s. Muslim Social Uplift Society, Sultan Jahan Manzi Shamsad, Market, Anoopshahr Road, Aligarh.
TAN/PAN: AAATM 8291R (Appellant)		(Respondent)

Appellant by:	None		
Respondent by:	Shri Amit Jain, Sr.D.R.		
Date of hearing:	11	04	2018
Date of pronouncement:	04	07	2018

ORDER

PER AMIT SHUKLA, J.M.:

The aforesaid appeal has been filed by the Revenue against the impugned order dated 09.11.2015, passed by Id. CIT(Appeals), Aligarh for the quantum of assessment passed u/s.143(3) for the Assessment Year 2011-12.

2. The facts in brief are that the assessee is a society registered under the Societies Registration Act, 1860 and also registered u/s.12AA w.e.f. 1.04.1999. The Assessing Officer after referring to the following judgments: *Sole Trustee, Loka Shikshan Trust vs. CIT, (1975) 101 ITR 234 (SC)*; *Saurashtra Educational Foundation vs. CIT, (2005) 273 ITR 139 (Guj.)*; and *Bihar Institute of*

Mining & Mine Surveying V. CIT (1994) 208 ITR 608 (Pat.) held that assessee's activity is mainly providing coaching to the students for appearing in various examinations, hence it does not fall under the category of educational or charitable activity. Accordingly, he taxed the surplus income as per the income and expenditure account of Rs.50,52,210/-.

3. Before the Ld. CIT (A), first of all, assessee submitted that in the earlier Assessment Years 2004-05, 2005-06, 2006-07 & 2009-10, this precise ground was raised by the Assessing Officer, which has been decided in favour of the assessee by the appellate authorities. Apart from that, it was submitted that the assessee as a part of its charitable activity is providing financial assistance to various categories of students and also giving needy students scholarship and also giving coaching for such needy and poor students for various competitive examinations. The charitable activities as carried out by the assessee society has highlighted in the following way:-

"6. That the Society is carrying out charitable activity by providing financial assistance to various categories of students including relief to the poor and needy. It is not out place to submit that many such needy students to whom scholarship are given are not even the students of assessee society, and such students are studying in different colleges. The object of carrying the social, Educational and charitable activities with the specific object to work for the education advancement of the people to promote education among the Indian citizens with a view to develop responsibility and god fearing human beings, to create in students qualities of

initiative, team work, co-operation, self-reliance and competitiveness and build their character according to the teaching of religion, to inculcate in the students a true sense of enquiry and love of knowledge and to collaborate in kindred activities with other national or international organizations, associations or institutions with similar objectives and other charitable activities including relief to poor and needy people. The true copy of memorandum of association and by e-laws of society is enclosed herewith.

7. That apart from aforesaid activities as stated in the preceding paragraph the assessee is also running a study centre of national council for promotion of Urdu language, Ministry of HRD, for diploma functional Arabic and certificate of functional Arabic.”

The decisions relied upon and cited by the Assessing Officer was distinguished and also various functions carried out by the assessee as per its object was also explained in detail.

4. Ld. CIT (A) noted that in the earlier years also on similar grounds the Assessing Officer has denied the benefit of Section 11, wherein the ld. CIT (A) has decided the issue in favour of the assessee, which has been confirmed by the ITAT Agra Bench also. Thus, following the decision of the Tribunal for the earlier years, the ld. CIT (A) deleted the addition of surplus amount and directed the Assessing Officer to grant exemption u/s.11.

5. Before us, learned DR has strongly relied upon the order of the Assessing Officer and submitted that earlier orders may not have a binding precedence in view of the

proviso brought to Section 2(15) w.e.f. 01.04.2009. Thus, assessee's activities cannot be held to be charitable in nature.

6. None appeared on behalf of the assessee, despite service of notice.

7. After considering the relevant findings given in the impugned order, we find that it is an undisputed fact that assessee has been granted registration u/s.12AA looking to its objects which were found to be for the 'charitable purposes' especially, in the educational field. The assessee has been imparting educational activities to the students who were undergoing the competitive examination in the fields of engineering, medical and other professional courses. It is also providing diploma in Arabic language which has been accredited by Ministry of Human Resources Development. It is also providing financial assistance for the poor and needy students and giving scholarships. Looking to its educational activities, in all the earlier years, the appellate authorities have held that assessee society is carrying out education activity which is in the nature of charitable activities; hence benefit of section 11 cannot be denied to the assessee. It is seen that precisely on the same issue, the Assessing Officer had denied the exemption and has taxed the surplus which has been turned down by the CIT (A) and also confirmed by the ITAT.

8. In so far as the argument placed before the learned Department Representative that earlier year decisions will not

have pervasive value, we do not find any substance in such arguments, because the *proviso* added to section 2(15) is only for the 'advancement of any other object or general public utility', whereas the assessee is carrying out the educational activities. Thus, the said *proviso* will not be applicable. Accordingly, the order of the Id. CIT (A) following the earlier years Tribunal order is affirmed and consequently the Revenue's appeal is dismissed.

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

Order pronounced in the open Court on 4th July, 2018.

sd/-

**[PRASHANT MAHARISHI]
ACCOUNTANT MEMBER**

sd/-

**[AMIT SHUKLA]
JUDICIAL MEMBER**

DATED: 4th July, 2018
PKK:

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

Assistant Registrar

		Date
1.	Date of dictation	02.07.2018
2.	Date on which the typed draft is placed before the dictating member	03.07.2018
3.	Date on which the typed draft is placed before the Other Member	
4.	Date on which the approved draft comes to the Sr.P.S./PS	
5.	Date on which the fair order is placed before the Dictating Member for pronouncement	
6.	Date on which the fair order comes back to the Sr.P.S./PS	
7.	Date on which the final order is uploaded on the website of ITAT	
8.	Date on which the file goes to the Bench Clerk	
9.	Date on which the file goes to the Head Clerk	
10.	The date on which the file goes to the Assistant Registrar for signature on the order	
11.	Date of dispatch of the order	