

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "बी" चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B', CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य एवं डा. बी.आर.आर, कुमार, लेखा सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 841/CHD/2018

निर्धारण वर्ष / Assessment Year : 2014-15

The DCIT (Exemptions), Circle-2, Chandigarh	बनाम	M/s Model School Society, Company Bagh, Church Road, Rohtak
स्थायी लेखा सं./PAN NO: AAAJM0185C		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Sh. G.S. Phani Kishore, CIT DR

राजस्व की ओर से/ Revenue by : Sh. Gautam Jain, Advocate

सुनवाई की तारीख/Date of Hearing : 31.10.2018

उदघोषणा की तारीख/Date of Pronouncement : 13.11.2018

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the Revenue against the order dated 26.03.2018 of the Commissioner of Income Tax (Appeals), Rohtak [hereinafter referred to as CIT(A)].

2. The Revenue in this appeal has agitated the action of the CIT(A) in deleting the disallowance made by the Assessing officer for non-filing of Form No. 10B in electronic form.

3. The Ld. CIT(A) has discussed this issue in detail in the impugned order and has given a categorical observation that the assessee had

furnished Form No. 10B manually before the Assessing officer during the assessment proceedings and further that the assessee could not upload the form 10B on Departmental website within the due time. The Ld. CIT(A) after relying upon the various case laws including the decision of the Hon'ble Supreme Court in the case of case of 'CIT Vs. Nagpur Hotel Owners Association' 247 ITR 201 (SC) and in 'CIT Vs. M/s Shimla Chandigarh Diocese Society (ITA No. 566 of 2008) has deleted the disallowance observing as under:-

“4.2.6 In the instant case the assessee had furnished Form 10 before the AO during the assessment proceedings and thus the ratio of decisions of the cases discussed above is squarely applicable in this case. Thus, in view of the above discussion and the decision of Hon'ble Supreme court of India in the case of Nagpur Hotel Owners' Association (supra), and Hon'ble Punjab & Haryana High Court (jurisdictional High Court) in the case of CIT vs M/s Shimla Chandigarh Diocese Society (ITA No. 566 of 200B) and various other courts it is held that the assessee may be given relief as he was able to furnish the form 10 and 10B before completion of assessment proceedings by the Assessing officer and on merits no discrepancy has been found by the Assessing officer to deny him the benefit of exemption u/s 11/12 of the Act. The Assessing officer is directed to allow assessee's claim of exemption u/s 11/12 of the Act and give benefit of accumulation as per section 11(2) of the Act and allow assessee's claim of capital investment made”

4. After hearing the Ld. Representatives of the parties, we find no reason to interfere in the order of the CIT(A). There is no merit in the appeal of the Revenue and the same is accordingly dismissed.

In the result, appeal filed by the Revenue is hereby dismissed.

Order pronounced in the Open Court on 13.11.2018.

Sd/-
(बी,आर.आर. कुमार / B.R.R. KUMAR)
लेखा सदस्य/ Accountant Member

Sd/-
(संजय गर्ग / SANJAY GARG)
न्यायिक सदस्य /Judicial Member

Dated : 13.11.2018
“आर.के.”

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar