

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

BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER

ITA No.7690/DEL/2018
Assessment Year: 2015-16

M/s. Ishwar Dayal Parsandi Devi Vidhya Prasarni Sabha C/o M/s. RRA Taxindia D-28, South Extension, Part-I, New Delhi -110049 PAN No. AAAAI4215N	Vs	Additional Commissioner of Income Tax Exemption, Range, Ghaziabad
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Somil Aggarwal, Advocate Shri Deepsh Garg, Advocate
Respondent by	Sh. S. L. Anuragi, Sr. DR

Date of hearing:	25/04/2019
Date of Pronouncement:	25/04/2019

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A), Ghaziabad dated 25.09.2018 pertaining to A. Y. 2015-16.

2. The solitary grievance of the assessee is that the CIT(A) erred in confirming the action of the Assessing Officer in not treating the repayment of loan as application of income.

3. Briefly stated the facts of the case are that the appellant is running educational institution and is registered with Registrar of Society, Uttar Pradesh under Society Registration Act. The appellant also avails the benefit of section 80G of the Act.

4. During the course of the scrutiny assessment proceedings the Assessing Officer noticed that under the head capital expenditure the assessee has claimed repayment of loan of Rs.82,66,627/- as application of income. The Assessing Officer was of the firm belief that repayment of loan is not an allowable expense and if the repayment of loan is allowed the same tantamount to claim double deduction. Accordingly the claim was disallowed.

5. The assessee carried the matter before the CIT(A) but without any success.

6. Before me the counsel for the assessee drew the attention to the circular No.100 dated 24.01.1973 issued by the CBDT and stated that the board has accepted the repayment of debt as application of income. The counsel further stated that in the immediately preceding year 2014-15 after scrutinizing the return of income the Assessing Officer had allowed the repayment of debt as application of income.

7. The DR strongly supported the findings of the CIT(A).

8. I have carefully considered the orders of the authorities below. I find force in the contention of the Ld. Counsel the CBDT circular No.100 dated 24.01.1973 read as under :-

Repayment of a debt incurred for charitable purposes by a charitable trust and loans advanced by educational trusts—Application of income

24/01/1973

CHARITABLE TRUSTS

SECTION 11,

Sec. 11 of the IT Act requires 100% of the income of a charitable and religious trust to be applied for religious and charitable purposes to be entitled to the exemption under the said section. Two questions have been considered regarding the application of income :

(i) where a trust incurs a debt for the purposes of the trust, whether the repayment of the debt would amount to an application of the income for the purposes of the trust; and

(ii) whether loans advanced by an educational trust to students for higher studies would be treated as application of income for charitable purposes.

2. Board has decided that repayment of the loan originally taken to fulfil one of the objects of the trust will amount to an application of the income for charitable and religious purposes. As regards the loans advanced for higher studies, if the only object of the trust is to give interest bearing loans for higher studies, it will amount to carrying on of money lending business. If, however, the object of the trust is advancement of education and granting of scholarship loans as only one of the activities carried on for the fulfilment of the objectives of the trust, granting of loans even interest bearing will amount to the application of income for charitable purposes. As and when the loan is returned to the trust, it will be treated as income of that year.

SOURCE : [Reported in (1973) 88 ITR (St) 66]

9. Further I find that while framing the assessment for A. Y. 2014-15 framed u/s. 143 (3) of the Act the Assessing Officer at clause 6 of that order has allowed the repayment of loan of Rs.8098470/- as application of income.

10. In the light of the CBDT circular and the previous assessment of order I direct the Assessing Officer to allow Rs.82,66,627/- for repayment of loan as application of income.

11. In the result, the appeal is filed by the assessee is allowed.
Order pronounced in the open court on 25.04.2019.

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

NEHA

Date:- 25.04.2019

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	25.04.2019
Date on which the typed draft is placed before the dictating Member	25.04.2019
Date on which the typed draft is placed before the Other member	25.04.2019
Date on which the approved draft comes to the Sr.PS/PS	25.04.2019
Date on which the fair order is placed before the Dictating Member for Pronouncement	25.04.2019
Date on which the fair order comes back to the Sr. PS/ PS	25.04.2019
Date on which the final order is uploaded on the website of ITAT	25.04.2019
Date on which the file goes to the Bench Clerk	25.04.2019
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	