

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "B" : DELHI

BEFORE SHRI G.D. AGRAWAL, VICE PRESIDENT
AND
SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.5124/Del./2016
Assessment Year 2012-2013

The Income Tax Officer (E), Trust Ward – 1 (1), Delhi.	vs.	Eklavya Foundation, B- 2/12, Model Town, New Delhi – 009. PAN AAATE0195L
(Appellant)		(Respondent)

For Revenue :	Ms. Nidhi Srivastava, CIT-DR
For Assessee :	Shri Somil Agarwal, C.A.

Date of Hearing :	07.05.2019
Date of Pronouncement :	07.05.2019

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Revenue has been directed against the Order of the Ld. CIT(A)-40 (Exemption), New Delhi, Dated 04.07.2016, for the A.Y. 2012-2013, on the following ground :

"On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in holding that the assessee society is involved in imparting education despite the fact that the assessee society was engaged in the activities of selling & publishing books which is in the nature of business, trade within the meaning of amended provisions of section 2(15) of the Income-tax Act, 1961."

2. Briefly the facts of the case are that assessee filed an appeal before the Ld. CIT(A) against the Order of the A.O. against denial of exemption under section 11(1) of the I.T. Act, 1961. The assessee is registered as charitable society under the Societies Registration Act, 1860 and is also registered under section 12AA of the Act. The assessee society is working under the aegis of Planning Commission and Ministry of HRD, Government of India. The income of the assessee is from selling of books and government grants. The assessee is involved in the field of education under which the training are given to teachers, to promote

education of youth and children and writing and publication of books for the children and distributing the same in the schools etc. The assessee filed the return of income declaring NIL income. The AO has denied exemption under section 11 of the I.T. Act by invoking the mischief of the Proviso of section 2(15) of the I.T. Act mainly on the ground that the assessee is involved in trade, commerce or business as the assessee is publishing text books and are selling the same. The assessee submitted that assessee is wholly involved in promoting education of children which is charitable in nature. It was submitted that A.O. similarly denied exemption in A.Ys. 2009-2010 and 2010-2011 but the same was allowed by the Ld.CIT(A), which was further allowed in A.Y. 2011-2012. The Ld. CIT(A) accepted the explanation of assessee and found that similar relief have been allowed to assessee by his predecessor in A.Ys. 2009-2010, 2010-2011 and 2011-2012. Accordingly, claim of assessee for exemption under section 11 was allowed.

3. Learned Counsel for the Assessee, at the outset, submitted that ITAT has dismissed the departmental

appeals for A.Ys. 2009-2010 and 2010-2011 vide Order dated 18.09.2017 in ITA.No.4292/Del./2012 and ITA.No.2870/Del./2014. He has also submitted that ITAT also dismissed departmental appeal for A.Y. 2011-2012 vide Order dated 18.06.2018 in ITA.No.5176/Del./2015. Copies of the Orders are filed in the paper book. Learned Counsel for the Assessee further submitted that further departmental appeals in the case of the same assessee for these years have been dismissed by the Hon'ble Delhi High Court. Copies of the Judgments are placed on record. He has, therefore, submitted that the issue is covered in favour of the assessee.

4. The Ld. D.R. did not dispute the same.
5. Considering the above facts, we are of the view that the issue is covered in favour of the assessee by the Order of ITAT, Delhi Bench in the case of the same assessee for preceding A.Ys. 2009-2010 to 2011-2012, in which, departmental appeals have been dismissed and Order of the Tribunal have been confirmed by the Hon'ble Delhi High Court. The Ld. D.R. has not pointed out any infirmity in the

Order of the Ld. CIT(A). The departmental appeal has no merit and the same is accordingly dismissed.

6. In the result, appeal of the Department dismissed.

Order pronounced in the open Court.

Sd/-
(G.D. AGRAWAL)
VICE PRESIDENT

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 07th May, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'B' Bench, Delhi
6.	Guard File.

// By Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.