

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

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

ITA.No.5283/Del./2016
Assessment Year 2012-2013

The Income Tax officer (E), Ward-1(3), E-2 Block, Room No.2419, 24 th Floor, Pratyaksh Kar Bhawan, Civic Centre, Jawahar Lal Nehru Marg, New Delhi PIN 110 002.	vs.,	DLF Qutab Elclave Complex Medical Charitable Trust, 9 th Floor, DLF Centre, Sansad Marg, New Delhi – 110 001. PAN AAATD0853C
(Appellant)		(Respondent)

For Revenue :	Ms. Nidhi Srivastava, CIT-DR
For Assessee :	Shri R.S.Singhvi, C.A. And Shri Satyajeet Goel, C.A.

Date of Hearing :	08.05.2019
Date of Pronouncement :	20.05.2019

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Revenue has been directed against the Order of the Ld. CIT(A)-40, New Delhi, Dated 19.07.2016, for the A.Y. 2012-2013, on the following grounds :

1. *“On the facts and in the circumstances of the case, the CIT(A) has erred in law and on facts in holding that leasing/sale of medical sites is charitable activity as per the provisions of section 2(15) of the I.T. Act. 1961.*
2. *On the facts and in the circumstances of the case, the CIT(A) has erred in not appreciating the facts that the assessee was not doing any charitable activity which would make it eligible for exemptions u/s 11/12 of the I.T. Act.*
3. *On the facts and in the circumstances of the case, the CIT(A) has erred in law and on facts in holding that the AO has not brought out any material on records to hold that assessee was providing undue benefit to the person covered u/s 13(3) by giving office space on lease to DLF Home Developers Ltd at rate much below than prevailing market rates.”*

2. Briefly the facts of the case are that assessee trust had filed return of income for the assessment year under appeal declaring NIL income. The assessment,

however, in this case has been completed at a total income of Rs.15.10 crores under section 143(3) of the I.T. Act vide assessment order dated 28.03.2015. In other words, the benefit of Sections 11 and 12 of the I.T. Act have been denied to the assessee. The assessee submitted before the Ld. CIT(A) that in preceding A.Y. 2011-2012 the assessee trust has been allowed full relief by the Ld. CIT(A). He has submitted that facts of the case are same in assessment year under appeal as have been considered in preceding assessment year. The Ld. CIT(A) found contention of assessee to be correct that in preceding A.Y. 2011-2012, the Ld. CIT(A) has allowed exemption under sections 11 and 12 of the I.T. Act, 1961. Therefore, all the additions have been deleted.

3. Learned Counsel for the Assessee, at the outset, submitted that in preceding A.Y. 2011-2012 departmental appeal have been dismissed by the Tribunal vide Order dated 09.03.2018 in ITA.No.126/2016. Copy of the Order is produced on record and provided to the Ld. D.R. The Ld. D.R. did not dispute the same.

4. Considering the facts of the case and the fact that in preceding A.Y. 2011-2012, the Ld. CIT(A) allowed similar relief to the assessee and departmental appeal have been dismissed by the Tribunal vide Order dated 09.03.2018, therefore, the issues are covered by the Order of the ITAT, Delhi Bench in the case of same assessee (supra). We, therefore, do not find any merit in the departmental appeal and the same is accordingly dismissed.

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

Order pronounced in the open Court.

Sd/-
(G.D. AGARWAL)
ACCOUNTANT MEMBER
Delhi, Dated 20th May, 2019
VBP/-

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Copy to

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

//By Order//

Asst. Registrar : ITAT : Delhi Benches : Delhi.