

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'E' : NEW DELHI)
BEFORE HON'BLE VICE PRESIDENT, SHRI G.D. AGRAWAL
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.5262/Del./2016
(ASSESSMENT YEAR : 2013-14)**

DCIT (E), Circle 2 (1), vs. M/s. National Accreditation Board,
New Delhi. 4th Floor, NBCC Place, East Tower,
Bhisham Pitamah Marg, Pragati Vihar,
New Delhi – 110 003.
(PAN :AAAAN8753G)

**CO No.5/Del/2017
(in ITA No.5262/Del./2016)
(ASSESSMENT YEAR : 2013-14)**

M/s. National Accreditation Board, vs. DCIT (E), Circle 2 (1),
4th Floor, NBCC Place, East Tower, New Delhi.
Bhisham Pitamah Marg, Pragati Vihar,
New Delhi – 110 003.
(PAN :AAAAN8753G)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Ruchesh Sinha, Advocate
REVENUE BY : Smt. Rinku Singh, Addl. CIT DR

Date of Hearing : 14.05.2019
Date of Order : 27.05.2019

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Since common questions of facts and law have been raised in both the aforesaid appeal and cross objection, the same are being disposed off by way of consolidated order to avoid repetition of discussion.

2. Appellant, DCIT (E), Circle 2(1), New Delhi (hereinafter referred to as the 'Revenue') by filing the present appeal sought to set aside the impugned order dated 13.07.2016 passed by the Commissioner of Income-tax (Appeals)-40, New Delhi qua the assessment year 2013-14 on the grounds inter alia that :-

“On the facts and circumstances of the case and in law, Ld. CIT (A) has erred in law in holding that the activities of the assessee are charitable in nature and that assessee is eligible for ht exemption u/s 11 of the I.T. Act by ignoring the fact activities of the assessee is to facilitate accreditation and continuing supervision through inspection and charging inspection and accreditation fees from various organizations. The assessee’s activities falls under last limb of section 2(15) of the Act and hit by the proviso to section 2(15) of the Act.”

3. Briefly stated the facts necessary for adjudication of the controversy at hand are : Assessee society, registered under the Societies Registration Act, a statutory body of Government of India, is also registered under section 12A of the Income-tax Act, 1961 (for short 'the Act') with main objectives as under :-

- a) *assess the grade colleges and/or institutions of technical and professional education the courses and programs offered by them, their various units, faculty, department etc.;*
- b) *stimulate the academic environment and quality of teaching and research in the institutions;*
- c) *contribution to the sphere of knowledge in its discipline.*

4. AO called upon the assessee to explain as to why its receipt from fees subscription should not be hit by Proviso of section 2(15) of the Act and denied the exemption under section 11 of the Act to

the assessee and thereby computed the income of the assessee as under :-

<i>Income as per Income and Expenditure Account</i>	<i>23,12,00,349</i>
<i>Expenses as per Income & Expenditure Account</i>	
<i>Establishment Expenses</i>	<i>1,30,45,438</i>
<i>Other Administrative Expenses</i>	<i>90,03,469</i>
<i>Expenses on Grants, subsidies etc.</i>	<i>-</i>
<i>Travel Expenses</i>	<i>11,29,19,091</i>
<i>Other Expenses</i>	<i>-</i>
<i>Depreciation</i>	<i>1,25,43,440</i>
<i>Income Tax for the Financial Year 2011-12</i>	<i>30,06,853</i>
	<i>15,05,18,291</i>
<i>Net Taxable Income</i>	<i>8,06,82,058</i>

5. Assessee carried the matter by way of an appeal before the Id. CIT (A) who has deleted the additions by allowing the appeal. Feeling aggrieved, the Revenue has come up before the Tribunal by way of filing the present appeal.

6. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

7. To proceed further, we would extract the provisions contained under section 2(15) of the Act for ready perusal as under:-

“2(15) "charitable purpose" includes relief of the poor, education, yoga, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and the advancement of any other object of general public utility:

Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—

(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

(ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year.”

8. When we examine the main objectives of assessee society for assessment and accreditation carried out by the assessee society, the same are to assess and grade colleges and/or institutions of technical and professional education, the courses and programs offered by them, their various units, faculty, department etc.; to stimulate the academic environment and quality of teaching and research in the institutions; to make contribution to the sphere of knowledge in its discipline; to motivate colleges and/or institutions of technical and professional education for research, and adopt teaching practices that groom their students for the innovation and development of leadership qualities; to encourage innovations, self evaluation and accountability in higher education; to promote necessary changes, innovations and reforms all aspects

of the working of the colleges/ institutions of technical and professional education for the above purpose; and to help institutions realize their academic objectives; it leads to the conclusion that the assessee society is into charitable activities, the objectives being incidental to the education.

9. Now, the question arises for determination in this case is :-

“as to whether receipts of the assessee from fees/ subscription are hit by Proviso to section 2(15) of the Act?”

10. When the assessee society is receiving receipt of fees/ subscription as per norms laid down by Government of India, profit motive is not visible rather all the activities are centered around disciplining, promoting, improving and contributing to similar academic environment and quality of teaching and to enhance the knowledge and discipline of the educational institutions which are incidental to the education and cannot be kept under the objects of general public utility.

11. When we further examine the activities being carried out by the assessee society in the light of the fact that in the immediately preceding year i.e. AY 2012-13, assessee has been duly granted exemption under section 11 of the Act by framing assessment under section 143(3) of the Act. Undisputedly, there is no change in the aims and objectives of the assessee society which are being

carried out in accordance with the Memorandum of Association and Certificate of Registration under Societies Registration Act dated 07.01.2010. There is not an iota of material brought on record by AO if the facts of the year under assessment are distinguishable from AY 2012-13.

12. In these circumstances, rule of consistency as laid down by *Hon'ble Supreme Court in Radhasoami Satsang vs. CIT 193 ITR 321 (SC)* is applicable in this case. So, the AO without proving on record that the activities of the assessee society are in the nature of trade, commerce or business proceeded to deny the benefit of section 11 of the Act which is not sustainable in the eyes of law. Rather assessee is carrying out its activities of accreditation as per All India Council for Technical Education (AICTE) Act, 1987 and there is no element of profit and as such First Proviso to section 2(15) of the Act is not applicable.

13. In view of what has been discussed above, we are of the considered view that Id. CIT (A) has rightly allowed the exemption under section 11 of the Act to the assessee by allowing the appeal. So, finding no illegality or perversity in the impugned order passed by the Id. CIT(A), the appeal filed by the Revenue is hereby dismissed.

14. Cross objection filed by the assessee is merely to support the order of the ld. CIT (A) and in view of the fact that appeal bearing ITA No.5262/Del/2016 filed by the Revenue in which the present cross objection was filed by the assessee has since been dismissed vide this composite order, the present cross objection is hereby dismissed having been become infructuous.

Order pronounced in open court on this 27th day of May, 2019.

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

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 27th day of May, 2019
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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-40, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**