

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

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA.No.2086/Del./2017
Assessment Year 2011-2012

The Income Tax Officer(E), Trust Ward – 1(1), Delhi.	vs.,	Association of Corporation & Apex Societies of Handlooms, Handloom Pavilion, Room No.25, 2 nd Floor, Handloom Marketing Complex, Near Indian Oil Building, Janpath, New Delhi. PAN AAATA0822C
(Appellant)		(Respondent)

For Revenue :	Shri Arun Kumar Yadav, Sr. D.R.
For Assessee :	Shri K.V.S.R. Krishna, C.A.

Date of Hearing :	03.07.2019
Date of Pronouncement :	04.07.2019

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Revenue has been directed against the Order of the Ld. CIT(A)-40, Delhi, Dated 30.01.2017, for the A.Y. 2011-2012 on the following ground :

1. *“On the facts and circumstances of the case in law, the Ld. CIT(A) has erred in law in ignoring that though the objects of the assessee seems to be charitable in nature, but the activities carried out by the assessee which resulted in the profits/surplus are commercial in nature.”*

2. Briefly the facts of the case are that assessee filed return of income declaring NIL income for assessment year under appeal. The assessee is registered under the Societies Registration Act and is also registered under section 12A of the I.T. Act since 28.06.1984. The society has been constituted by Development Commissioner (Handloom), Ministry of Textiles, Government of India. The main object of the assessee society is to promote the Handloom Sector. It works as an implementing agency for the Development Commissioner (Handlooms), Government of India for organizing exhibitions in different parts of the country for display and sale of Handloom Fabrics/Cloth manufactured by Handloom Weavers and Handloom Society. The A.O. issued show cause notice to the assessee as to why its

activities should not be treated as business by providing facilities to member societies for fee and why the same should not be covered by proviso to Section 2(15) of the I.T. Act. The assessee in response stated that it is a non-profit organisation managed and controlled by the Government of India and that its objectives are to carry out and diffuse useful knowledge to the member units towards marketing of Handloom products. Its main object is to promote the Handloom Sector by providing marketing platform to Handloom Primary Societies, Apex Societies as well as Handloom Corporations and that it procures orders from various Departments of Government of India for supply of Handloom items and distributes the orders to various members of the society for supply. It was also submitted that Society is registered under section 12A of the I.T. Act and as such qualifies for exemption under sections 11 and 12 of the I.T. Act. The A.O. however, did not accept the contention of assessee and rejected the claim of assessee by invoking proviso of Section 2(15) of the I.T. Act, 1961.

3. The assessee reiterated the submissions before Ld. CIT(A) and explained that assessee is not in any business activity. The Ld. CIT(A) found that the issue is same as has been considered by him in A.Y. 2010-2011 in assessee's own case. The order was reproduced in the impugned order in which it was held that assessee is entitled for benefit of Section 11 of the I.T. Act. The Ld. CIT(A) following his order for the A.Y. 2010-2011 directed that assessee is entitled for benefit of Section 11 of the I.T. Act. Appeal of assessee was allowed.

4. Learned Counsel for the Assessee at the outset submitted that in A.Y. 2010-2011 the Revenue preferred appeal before ITAT, Delhi A-Bench in the case of assessee in ITA.No.4788/Del./2016 which have been dismissed vide Order dated 27.03.2019 by holding that assessee is entitled for benefit of Section 11 of the I.T. Act. The operative portion of the Order is reproduced as under :

“We are of the view that the Assessing Officer has not appreciated the activities and objective of the society properly and therefore he is not justified in holding that

provision to section 2(15) will be attracted in the case of the assessee. In our opinion, the finding of the Ld. CIT(A) on the issue in dispute is well reasoned, and we do not find any error in the same. Accordingly we uphold the same. The ground of the appeal of the Revenue is accordingly dismissed.”

5. The Ld. D.R. submitted that the issue is covered in favour of the assessee by the above Order of the Tribunal.

6. On consideration of rival submissions, we are of the view that the issue is covered by the Order of ITAT in the case of same assessee for A.Y. 2010-2011 Dated 27.03.2019 (supra). The Ld. CIT(A) allowed the appeal of assessee following his Order for the A.Y. 2010-2011 which have been confirmed by the Tribunal. Therefore, no infirmity have been pointed out in the order of the Ld. CIT(A). We, confirm the same and dismiss the departmental appeal.

7. In the result, appeal of Department dismissed.

Order pronounced in the open Court.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated July, 2019

VBP/-

Copy to

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

//By Order//

Asst. Registrar : ITAT : Delhi Benches :
Delhi.