

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI**

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA Nos.6591& 6592/Del/2018
(Assessment Years: 2013-14 & 2014-15)**

IMC of ITI Dadri,
C/o Govt. ITI Dadri, Choulas Road,
Ghaziabad.
PAN: AAAAI5190A
Appellant

Vs. Income-tax Officer,
Exemption Ward,
Ghaziabad.

Respondent

Revenue by : Ms Ekta Vishnoi, Sr. DR

Assessee by: Shri Ashwani Goyal, CA

Date of Hearing 16.10.2019

Date of pronouncement 30.10.2019

ORDER

PER K. NARASIMHA CHARY, JM

These are two appeals filed by the assessee against the order passed by the learned Commissioner of Income Tax (Appeals), Ghaziabad("Ld. CIT(A)") both dated 27.12.2017. Since the facts and issue involved in both these appeals are same, we find it just and convenient to decide both these appeals by this common order taking into consideration the facts in ITA No.6591/2018 for the Assessment year 2013-14.

2. Brief facts of the case are that the assessee society is a Institute management Committed and is formed with the aim (i) to assist

in improvement of standard of vocational training and skill development in the country as a whole; (ii) the society has been formed with the specific aim of up gradation of the industrial training institute (ITI) Dadri into a centre of excellence in such a way that the better employability of the passing out graduate. For the purpose, interest free loan of Rs.2.5 crore was granted to the society by the Ministry of Labour and Employment, New Delhi.

3. For the Asstt. Year 2013-14 and AY 2014-15, the assessee filed its return of income on 13.9.2013 and 31.3.2015 respectively declaring nil income but the learned AO had taken the view that the assessee is only a committee and not an institute for the purpose of claiming deduction u/s 10(23C)(iiiab) of the Income-tax Act, 1961 ("the Act"). Learned AO further held that the up gradation of ITI, which would lead to better employability of passing out of graduates, would not be presumed as existing for education, which assessee has been contending that the Existing for Education would include support in providing education.

4. In appeal, Id. CIT(A) referred to the contentions of the assessee and observed that during the course of appellate proceedings, the assessee was required to produce evidence in support of the claim that it is an institution covered by provisions of Section 10(23C)(iiiab) of the Act but the assessee produced copy of letter dated 21.7.2014 wherein Government had taken out a circular regarding constitution of a working group of revamping of ITIs. According to the learned CIT(A), examination of memorandum of the society reveals that the assessee is a society engaged in improvement of standard of vocations training under public

private partnership scheme but the assessee failed to fulfil the primary conditions of claim under above said section that it should be a university or education institution and should be financed wholly by Government. According to the Id. CIT(A), the assessee is not such an institution and, therefore, she dismissed both the appeals.

5. Before us it is argued by the Id. AR that the Existing for Education would include support and providing education. He further submitted that the assessee is a 100% financed by the Government and it is existing solely for educational purpose but the authorities below failed to appreciate this fact in a detailed manner and both the orders are passed without proper appreciation of the fact after affording an opportunity to the assessee. According to him, the Id. CIT(A) should have taken a fair investigation into the source of finance of the assessee which would have been revealed that the assessee is a 100% financed by the Government and also has solely been existing for education purposes. If it is not for educational purpose the very existence of assessee itself is a purposeless, which cannot be attributed to the assessee.

6. Per contra, it is the submission of the Id. DR that the assessee failed to produce any evidence before the authorities below that they are 100% financed by the Government and they are existing for educational purpose. She fairly submitted that if assessee is having any evidence to prove the same, it could be produced before the AO.

7. The aims of forming society themselves show that the main aim of the society is to assist in improvement of standard of vocational training and skill development in the country as a whole and it is formed with the

specific aim of up gradation of IIT into a centre of excellence in such a way that the training provided in the ITI is improved and becomes demand driven leading to better employability of the passing out graduates. Further para 3 of the CIT(A) order itself shows that for such purpose interest free loan of Rs.2.5 lacs by the Ministry of Labour& Employment. At least this factor should have inspired the learned CIT(A) to make a further enquiry as to the sources of funding of the assessee society. Further, Section 10(23C)(iiiab) of the Act clearly shows that any income received by any person on behalf of any university or other educational institution existing solely for the educational purpose and not for purposes of profit and it is wholly or substantially financed by the Government shall not be included in computing the total income of a previous year of any person. Here, in this case, a little more enquiry as to the purposes other than the educational purposes for which the assessee was formed or sources of income of the assessee should have revealed to the revenue authorities that the assessee had a semblance of educational institution and substantially financed by the Government. Not undertaking such an enquiry resulted in these proceedings.

8. We, therefore, are of the considered opinion that the learned AO should have taken little more care to appreciate the contentions of the assessee in the light of the objections for which the assessee was formed. With this view of the matter, we set aside the impugned orders and remand the issue to the file of the learned AO to make enquiries into the funding of the assessee institute and also whether it has got any other objectives other than the educational purposes.

9. In the result, appeals of the assessee for both the years are allowed for statistical purposes.

Order pronounced in the open court on 30th October, 2019.

Sd/-

sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

**(K. NARASIMHA CHARY)
JUDICIAL MEMBER**

Dated: 30th October, 2019.

VJ

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

**ASSISTANT REGISTRAR
ITAT, New Delhi**

Date of dictation	17.10.2019
Date on which the typed draft is placed before the dictating member	17.10.2019
Date on which the typed draft is placed before the other member	25.10.2019
Date on which the approved draft comes to the Sr. PS/ PS	.10.2019
Date on which the fair order is placed before the dictating member for pronouncement	.10.2019
Date on which the fair order comes back to the Sr. PS/ PS	.10.2019
Date on which the final order is uploaded on the website of ITAT	.10.2019
date on which the file goes to the Bench Clerk	.10.2019
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	