

IN THE INCOME TAX APPELATE TRIBUNAL  
DELHI BENCH "SMC": NEW DELHI  
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

**ITA No. 1245/DEL/2018**

A.Y.: 2014-15

IMC OF ITI KASGANJ,  
ALIGARH  
C/O DEEPAK SINGH, ADVOCATE,  
2, COURT OF WARDS,  
COMPOUND,  
ALIGARH  
UTTAR PRADESH-202001  
(PAN: AAAT18168D)

VS. ITO(E), WARD  
GHAZIABAD

**(Appellant)**

**(Respondent)**

Assessee by : Sh. Deepak Singh, Advocate  
Department by : Sh. Amrit Lal, Sr. DR.

**ORDER**

This appeal filed by the Assessee is directed against the Order dated 03.11.2017 of the Ld. CIT(A), Aligarh pertaining to assessment year 2014-15 on the following grounds:-

- i) Because the Ld. CIT(A) has erred in not granting exemption to the appellant under*

*the provisions of section 10(23C) (iiiad) and 10(23C)(iiiab) of the I.T.Act, 1961.*

*ii) Because the order is bad in law as well as on fact.*

2. At the time of hearing, Ld. Counsel for the assessee submitted that the issue involved in this appeal has already been adjudicated and decided in favour of the assessee by the ITAT, Agra Bench, Agra in the case of assessee in ITA No. 340/Agra/2016 (AY 2013-14) vide order dated 07.08.2019. He further draw my attention towards the findings at page no. 2 to 6 vide para no. 4 to 7 of the said order dated 7.8.2019 and requested that respectfully following the same, the appeal of the assessee may be allowed.

3. On the contrary, Ld. DR has not distinguished the case relied upon by the assessee's counsel, but he relied upon the orders passed by the revenue authorities.

4. I have heard both the parties and perused the records especially the orders of the authorities below as well as the ITAT, Agra Bench, Agra decision dated 07.08.2019 passed in assessee's own case passed in ITA No. 340/Agra/2016 (AY 2013-14). The relevant portion of the finding of the said decision is reproduced as under:-

*"4. We have consider the rival submissions and have perused the material available on record. Tribunal in the case of M/s IMC of ITI Koikasimpur Power House Govt., passed in SA No. 11/Agra/2018 dated 19.6.2019 and order*

*dated 02.7.2019 in ITA no. 74/Agra/2018 held as under:-*

*"11. We have heard the rival contentions of the parties and perused the material available on record and also gone through the decisions relied upon by the Ld. AR for the assessee as well as by the Ld. DR for the revenue.*

*"10. In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included Section 10(23C) (iiiad) provides as under:*

*(23C) any income received by any person on behalf of –*

- i) The Prime Minister's National Relief Fund; or*
- ii) .....*
- iii) .....*

*[(iiiab) any university or other educational institution existing solely for educational purposes and not for purpose of profit, and which is wholly or*

*substantially financed by the Government; or*

*13. from the perusal of the above noted provision it is abundantly clear that the income arising out of the activities carrying out by the assessee. If falls under, the above noted clause, than it shall not be included for the purpose of computing the total income of the previous year. This Section further provides that income may be received by the assessee on behalf of the University or any other educational institution. Meaning thereby it is not necessary to run University or run educational institution, by the Assessee itself, for claiming the benefit of section 10 (23 C) (Wad). In our view, in law, it is sufficient if the income is received by assessee on behalf of educational institution for claiming the benefit under section 10(23), subject to the fulfillment of conditions of disbursements of grant and subject to utilization of the revenue for the purposes of education alone.*

*14. We are of the opinion that there is no requirement in law to own the educational*

*institution for the purposes of claiming the benefit of section 10(23C)(iiad), as it can be received by the assessee on behalf of the society or institution running the educational institution. What is required and sine qua non for claiming benefit of 10(23C)(iiad), is to run the education institution and receive the income for that purposes either itself or on behalf of institution running the educational institution.*

15. *In the present case assessee society is engaged in providing upgradation/ improvement to the government run ITI and is also providing on the job training to the students of the government run ITI and is also providing on the job training to the students of the government run ITI, after entering into memorandum of understanding with Central and State Government, further the assessee is bound by the instructions issued by both the governments. Both the lower authorities have admitted that the assessee is managing the ITI (ref para 5.6 of CIT(A)) " Though the appellant socociety's managing an educational institution*

*namely ITI Kasganj, .....".) an educational institute.*

*16. In our considered opinion the upgradation/improvement of the government run ITI and providing job-training to the students for the purpose of skill development is an integral and essential part of education activities and is education. In view thereof we are of the opinion that that the assessee society is involved in running and managing of the education institutions.*

*17. There is one more reason for allowing the appeal for the assessee as the assessee had entered into the memorandum of understanding with the government of India for the purposes stated above and also mentioned in memorandum of understanding. The objects of the understanding, clearly suggest that' this partnership was conceived with a view to impart education/upgrade and improve the standard of the government ITI and also provide on-the-job training/skill*

*development of the student studying in ITI.*

*18. In view the above we are of the opinion that the assessing officer and the Commissioner both erred in rejecting the claim of the assessee and accordingly we allow the appeal of the assessee and direct the assessing officer to grant the benefit u/s. 10(23C) (iiad) to the assessee in accordance with law."*

*5. As the facts of the present case, as well as the facts of the case mentioned in paragraph 5 supra are identical, therefore the decision of the coordinate bench in the matter of IMC (supra) is binding on this tribunal. Further, we are of the considered opinion the decision of the coordinate Bench in the matter of FRP Institute[2017] 88 taxmann.com 835 (Chennai - Trib.) relied upon by the Revenue are not applicable to the facts before this bench. The Tribunal in the said matter had notice the facts, subject matter of the appeal in paragraph 3 to the following effect:*

*3. The issue involved in the instant appeal is the exigibility to exemption under section 11 on assessee's income, denied by the Revenue, since allowed by the first appellate authority. The basic controversy*

*attending this case is if the assessee-society, formed on December 1, 1998, duly registered as a charitable institution under section 12AA of the Act on March 17,2003, is pursuing the object of education, as contended by it, or the same is the advancement of any other object of general public utility, as contended by the Revenue. This assumes relevance as its receipt for the relevant year, in the main, is stall charges, received in the sum of Rs. 302.71 lakhs, and which, being in excess of Rs. 25 lakhs, would operate to oust its case under the first proviso to section 2(15), which reads as under, i.e., where the charitable purpose involves advancement of any other object of general public utility:*

*"2. Definitions.-In this Act, unless the context otherwise requires,- ...*

*(15) 'charitable purpose' includes relief of the poor, education, medical relief, preservation of environments (including water-sheds, 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 :*

*Provided further that the first proviso shall not apply if the aggregate value of the receipts from the activities referred to therein is twenty-five lakh rupees or less in the previous year;" (emphasis, by italics, ours)*

*While the Assessing Officer (AO) considers the charitable purpose to be falling under the last limb, the learned Commissioner of Income-tax (Appeals) regards the assessee as pursuing the object of "e~", so that, aggrieved, the Revenue is in appeal."*

*6. From the perusal of the question of law reproduced herein above it is abundantly clear*

*that the issue before the Chennai tribunal was entirely different than the issue before us hence this decision is not applicable in the facts of the present case.*

*7. In view of the above respectfully following the decision of the coordinate Bench in the matter of IMC (supra) rather than decision of another coordinate Bench in the case of FRP Institute, we allow the appeal of the assessee.*

*We are of the opinion that the case of the FRP institute also distinguishable on facts. The definition of education has not been analyzed by the Tribunal. The pedantic and restrictive manner of the education cannot be given, education is a never-expending activity which not included the development human cognitive faculty, ability but also bringing within its realm skill development and professional and business learning activities. In view of the above providing technical skills to the student by the assessee would also come within the scope of education and accordingly we concur with the view expressed by us in the matte of IMC (Supra). Accordingly, the appeal of the assessee is allowed.”*

5. After perusing the aforesaid finding, I am of the view that the facts and circumstances of the above case relied upon by the Ld. Counsel for the assessee and the case in hand is exactly similar and identical, therefore, respectfully following the aforesaid precedent, the Assessing Officer is directed to grant benefit u/s. 10(23C)(iiiad) and 10(23C)(iiiab) of the I.T. Act, 1961 to the assessee and accordingly, the appeal of the assessee is allowed.

6. In the result, the Appeal of the assessee is allowed.

Order pronounced on 11-11-2019.

**Sd/-**  
**[H.S. SIDHU]**  
**JUDICIAL MEMBER**

Date:11/11/2019

**SRB**

**Copy forwarded to: -**

1. Appellant 2. Respondent 3. CIT 4.CIT (A) 5. DR, ITAT

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By Order,

Assistant Registrar, ITAT, Delhi Benches