

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No. 243/DEL/2018 (A.Y 2013-14)

(THROUGH VIDEO CONFERENCING)

ACIT (E) E-2, Block Pratyakash Kar Bhawan, Dr. Shyama Prasad Mukherjee Civic Centre, New Delhi (APPELLANT)	Vs	Delhi & District Cricket Association Ferozshah Kotla Ground, Bahadurshah Zafar Marg, New Delhi AAATD0828P (RESPONDENT)
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Appellant by	Ms. Nidhi Srivastava, CIT DR
Respondent by	Sh. Ved Jain, Adv

Date of Hearing	27.08.2020
Date of Pronouncement	28.08.2020

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the Revenue against the order dated 30/10/2017 passed by CIT (A)-40, Delhi for Assessment Year 2013-14.

2. The grounds of appeal are as under:-

“(i) On the facts & in the circumstances of the case and in law, Ld CIT (A) has erred in directing the AO to allow exemption u/s. 11 of the Act particularly when the assessee has shown receipts from Sponsorship Income, Sale of Liquor, Income from Corporate Boxes and Sale of Tickets which are purely commercial in nature.

(ii) On the facts & in circumstances of the case and in law, Ld CIT (A) has erred in treating Prior Period Expenses and Provisions for Gratuity and Leave

Encashment as consequential to allowing exemption to the assessee ignoring the fact that such expenses are not incurred during the year and cannot be treated as application of income.”

3. The assessee is a company registered u/s 25 of the Companies Act, 1956 with an object to encourage and promote the game of Cricket. The Society was registered u/s 12A vide order dated 6/3/1997. The registration was withdrawn with effect from 1/4/2009 for Assessment Year 2009-10 onwards vide order dated 21/5/2012. The Tribunal vide order dated 13/1/2015 in ITA No. 3095/Del/2015 quashed the order of withdrawal of registration u/s 12A. In the meanwhile, the return of income declaring NIL income was filed on 7/2/2014 for the present assessment year by the assessee. During the assessment proceedings, the activities were examined with reference to the amended provisions of Section 2(15) of the Act. The Assessing Officer denied exemption u/s 11 mainly on the ground that the assessee is involved in business activities as per the proviso of Section 2(15). Since, the assessee receives sponsorship fee, casual membership fee, rent from the ground, collection from the health club, ticket sale from public and the corporate houses, restaurant and telecasting rights fees etc and that these activities are commercial in nature. Provisions of the proviso to Section 2(15) were invoked during the Assessment Years 2009-10, 2010-11, 2011-12 & 2012-13. Relying on the amended definition of charitable purpose, the Assessing Officer was of the view that the amended definition it is clear that promotion of sports carried out by the Sports Association like Cricket Associations falls in the category of advancement of any other object of general public utility can be regarded as a charitable activity only if it does involve activities in the nature of trade, commerce or business for cess or fee or any other consideration whatsoever of the nature of use or application or retention of income from such activities. Benefits of exemption under Sections 11 & 12 was denied and only depreciation on assets purchase till Financial Year 2009-10 and onwards were allowed. Further, expenditure incurred in cash was disallowed u/s

40A(3) by the Assessing Officer and advance were also made on account of treating membership fee shown as receipt in corpus fund as being revenue in nature as well as disallowance was made in respect of prior period expenses provisions for gratuity and leave encashment.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. DR relied upon the assessment order and submitted that the CIT(A) erred in directing the Assessing Officer to allow exemption u/s 11 of the Act particularly when the assessee has shown receipts from sponsorship fee, income of corporate houses and sale of tickets which are purely commercial in nature. The Ld. DR further submitted that the CIT(A) also erred in treating prior period expenses, provisions for gratuity and leave encashment as consequential to allowing exemption to the assessee ignoring the fact that such expenses are not incurred during the year and cannot be treated as application of income.

6. The Ld. AR submitted that the CIT(A) has categorically allowed the appeal of the assessee in light of the Tribunal's decision of quashing the order of withdrawal of registration u/s 12A in assessee's own case for Assessment Year 2009-10. Therefore, the CIT(A) was right in allowing the appeal in that respect and correctly directed the Assessing Officer to allow exemption u/s 11 of the Act with all consequential benefits. The Ld. AR, therefore, submitted that appeal of the Revenue does not sustainable.

7. The Ld. DR in rejoinder submitted that the Tribunal vide order dated 30th January, 2015 has quashed the order of the withdrawal of registration u/s 12A of the Act. Therefore, the CIT(A) has directed the Assessing Officer to allow exemption u/s 11 with all consequential benefits.

8. We have heard both the parties and perused the material available on record. Both the parties i.e. the Ld. AR and the Ld. DR have submitted that the CIT(A) has rightly directed the Assessing Officer to allow exemption u/s 11 of the Income Tax Act, 1961 taking cognizance of Tribunal's decision for quashing the withdrawal of registration u/s 12A of the Act. In light of this, the appeal filed by the revenue does not survive on merit. Thus, the CIT(A) has rightly adjudicated the appeal of the assessee and partly allowed the same. There is no need to interfere with the findings of the CIT(A). Hence, the appeal of the Revenue is dismissed.

9. In result, the appeal of the Revenue is dismissed.

Order pronounced in the Open Court on this 28th Day of AUGUST, 2020.

Sd/-

(R. K. PANDA)
ACCOUNTANT MEMBER

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Dated: 28/08/2020
R. Naheed

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
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Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
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