

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'F': NEW DELHI)  
(Through Video Conference)  
BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 1069/Del/2018  
(Assessment Year: 2013-14)**

DCIT (Exemption), Circle, Ghaziabad.	Vs.	Rajkiya Audhogik Krishi Pradarshani Avam Govt. Industrial & Agricultural Exhibition, G.T. Road, Aligarh.
<b>PAN No: AAATG9972B</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue By** : Shri Jagdish Singh, Sr. DR  
**Assessee By** : Shri Sunil Tyagi, CA

**Per Anadee Nath Misshra, AM**

**(A)** This appeal by Revenue is filed against the impugned order of Learned Commissioner of Income Tax (Appeals)-, Aligarh, ["Ld. CIT(A)", for short], dated 14.11.2017 for Assessment Year 2013-14. The Grounds taken in this appeal of Revenue are as under:

- "1. *The Ld. CIT(A) has erred in law and facts in deleting the additions of Rs. 2,79,58,532/- made in respect of surplus for the year under consideration.*

2. *That the Ld. CIT(A) has erred in law and facts in deleting the additions of Rs. 1,48,44,354/- made in respect of expenses found to be commercial in nature.*
3. *That the Ld. CIT(A) has erred in law and facts in deleting the additions of Rs. 72,20,065/- made in respect of other expenses.*
4. *The order of Ld. CIT(A) be cancelled and the order of the AO be restored."*

**(B)** The appellant society had filed its return of income on 30.09.2013 declaring Nil income. Subsequently, the case was selected for scrutiny and notice u/s 143(2) was issued on 08.09.2014. The society is registered with Registrar of Societies and also registered by Commissioner of Income Tax, Agra u/s 12AA of Income Tax Act. During the course of the assessment proceedings, the AO examined the objects of the society and also the sources of its income. She was of the opinion that the income of the appellant does not arise from any property held in trust and consequently would not be exempt u/s 11 & 12 of the I.T. Act. Further, certain expenses were held not be related to charitable activities and disallowed. This resulted in addition of Rs. 1,48,44,354/-. An addition of Rs. 72,20,065/- was also made by disallowing a part of certain other expenses. The above mentioned additions were added to the surplus income of Rs. 2,79,58,532/- and the total income was assessed at Rs. 5,00,22,951/-.

**(C)** Aggrieved, the Assessee filed appeal against the Ld. CIT(A). Vide impugned appellate order dated 14.11.2017, the Ld. CIT(A) allowed the assessee's appeal and

deleted all the additions. The relevant portion of the order of Ld. CIT(A) is reproduced as under:-

**5.1 Decision**

In this case, it is an undisputed fact that the appellant society is registered u/s 12AA by the CIT. Registration u/s 12AA is granted only when the CIT gets satisfied that the objects of the institution seeking registration are charitable in nature. Since the CIT has registered the society, it can be presumed that he was satisfied about the charitable character of the objects. That being so, the AO had

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no jurisdiction to re-examine the objects in order to ascertain its character. For the purpose of assessment, an AO is required just to verify that the income of the society has been spent only for the purpose of advancing the objects for which it has been registered by the Commissioner. The AO has not recorded any finding which may indicate that the income of the society has not been spent towards promoting the charitable objects of the society. The AO has not only held surplus of the society as taxable she has also disallowed expenses of Rs. 1,48,44,354/- (full) and expenses of Rs. 72,20,065/- (partly) for reasons which do not appear to be convincing. There is no finding that these expenses are bogus or have not been incurred. Apparently, all such expenses relate to the organization of the annual fair in the City of Aligarh which is the main object and purpose of the society. The activities of the society are monitored by the district authorities and there can be no allegation that the expenses incurred by the society are not charitable or not incurred during the normal course of its activities. The society is under direct control of the district authorities and its account are audited regularly and there is no ground to suspect genuineness of the expenses.

In view of the above, there can be no ground either for taxing the surplus or disallowing certain expenses. Similar issues were examined by the Hon'ble ITAT, Agra in the appellant's own case for A.Y. 2009-10. The appellant's income was held to be exempt by the Hon'ble ITAT observing as under:-

4. After hearing the Id. Representatives of the parties, we notice that on identical set of facts the issue has been decided by I.T.A.T., Agra Bench in assessee's own case in ITA Nos.72 & 73/Agr/2011 for Assessment Years 2005-06 & 2006-07, order dated 31.08.2012. The finding of I.T.A.T., Agra Bench in the said order dated 31.08.2012 is reproduced as under :-

7. We have heard the Id. Representatives of the parties and records perused. We notice that the assessee has granted registration under section 12A/12AA of the Act dated 09.10.2000 w.e.f. 01.04.99. This registration has not been found cancelled. The objects of the Society are charitable as its aims and activities are to promote small scale industries, agriculturists, artists etc. The CIT(A) noted that the clauses of Memorandum & Article of Association mentions that income or funds are not divisible amongst the members of the trust and no benefits are to go to any individual, the entire funds or any surplus generated are dovetailed into the avowed of charitable

activities of the Society. The CIT(A) has also noted the fact that the entire rental income generated is being ploughed back for the purposes of the Society. The CIT(A) has followed his predecessor's order for A.Y. 2006-07 in assessee's own case wherein it was stated that the A.O. cannot simply override the order of CIT. Agra by pointing out certain defects in constitution of the Society and proceed to disallow the claim of exemption u/s 11 & 12 of the Act. Action of the A.O. was beyond jurisdiction. It has also been noticed in that order that the society was allowed registration under section 12A/12AA of the Act dated 9<sup>th</sup> October, 2000 and the assessee's cases were scrutinized for the A.Ys. 1989-90, 1990-91 & 1995-96 wherein it was held that income of the society was exempt. As regards the contention of the Id. Authorised Representative regarding Society's property, ~~with~~ with the contention of the Id. Authorised Representative that 'property' word used in section 11 is a term of widest import, and subject to any limitation or qualification which the context might require, it signifies every possible interest which a person can acquire, hold and enjoy. 'Business' would undoubtedly be 'property', unless there is something to the contrary in the enactment. There is nothing in the language of section 11 which restricts in any manner the normal and accepted meaning of the word 'property'. In this regard, we may refer the judgment of Apex Court in the case of J.K. Trust vs. CIT, 32 ITR 535 (SC). Hon'ble Bombay High Court in the case of A.J. Patel vs. CIT, 97 ITR 683 (Bom) held that the right to exploit space on either side of an overbridge for advertisements is a 'property'. In the light of the above discussion, we do not find any substance in the submissions of the Id. Departmental Representative, therefore, the same is dismissed.

8. As regards the objection of the Id. Departmental Representative in respect of disallowance of expenditure, we notice that the CIT(A) has rightly held that the A.O. himself accepted those expenses incurred for the purposes of the object of the Society as he made adhoc disallowance in part. The CIT(A) after verifying the facts satisfied that expenses were incurred for charitable purposes in accordance with the object of the Society.

9. In the light of the above discussion, we do not find any infirmity in the order of the CIT(A). The order of the CIT(A) is, therefore, confirmed.

10. As stated above that since the facts of the case for A.Y. 2006-07 are identical to the case for A.Y. 2005-06 of which detailed discussion has been made above, in the light of the same, order of the CIT(A) for A.Y. 2006-07 is also confirmed."

Respectfully following the above quoted judgement of the Hon'ble ITAT, I hold that the income of the society is fully exempt for the year under consideration. Accordingly, the AO is being directed to assess the income as Nil.

**(C.1)** It is readily discernible that the decision of Ld. CIT(A) in his impugned appellate order is based on the order of Income Tax Appellate Tribunal in assessee's own case for Assessment Years 2005-06, 2006-07 and 2009-10. The present appeal has been filed by Revenue against the aforesaid impugned order dated 14.11.2017 of the Ld. CIT(A).

**(D)** At the time of hearing before us, learned Authorized Representative ("Ld. AR", for short) for the assessee contended that all the issues in dispute in the present appeal are covered in favour of the assessee by order dated 16.01.2020 of Coordinate Bench of ITAT, Delhi in assessee's own case for Assessment Year 2010-11 in ITA no. 6735/DEL/2014. He drew our attention to the relevant portion of the aforesaid order dated 16.01.2020 of Coordinate Bench of ITAT, Delhi, which is reproduced as under for ease of reference:-

***(D)** We have heard both sides. It is not in dispute that facts and circumstances in the present appeal before us are identical to facts and circumstances for Assessment Years 2005-06 & 2006-07, 2008-09 and 2009-10 for which vide aforesaid orders dated 31.08.2012, 07.09.2012 and 15.03.2013 of Co-ordinate Bench of ITAT has already decided the issues in dispute in assessee's favour, in identical facts and circumstances. Neither side has brought any distinguishing facts and circumstances for our consideration to persuade us to take a view different from the view already taken by Co-ordinate Bench of ITAT, in assessee's own case by aforesaid orders dated 31.08.2012, 07.09.2012 and 15.03.2013 of Co-ordinate Bench of ITAT. We also find that Co-ordinate Bench of ITAT, in aforesaid orders dated 07.09.2012 and 15.03.2013 has followed the order dated 31.08.2012 of Co-ordinate Bench of ITAT, in ITA Nos. 72 & 73/Agr/2011 for Assessment Years 2005-06 & 2006-07. The relevant portion of the aforesaid order dated 31.08.2012 of Co-ordinate Bench of ITAT is reproduced as under:*

“7. We have heard the Id. Representatives of the parties and records perused. We notice that the assessee has granted registration under section 12A/12AA of the Act dated 09.10.2000 w.e.f. 01.04.99. This registration has not been found cancelled. The objects of the Society are charitable as its aims and activities are to promote small scale industries, agriculturists, artists etc. The CIT(A) noted that the clauses of Memorandum & Article of Association mentions that income or funds are not divisible amongst the members of the trust and no benefits are to go to any individual, the entire funds or any surplus generated are dovetailed into the avowed of charitable activities of the Society. The CIT(A) has also noted the fact that the entire rental income generated is being ploughed back for the purposes of the Society. The GIT(A) has followed his predecessor’s order for A.Y. 2006-07 in assessee’s own case wherein it was stated that the A.O. cannot simply override the order of CIT, Agra by pointing out certain defects in constitution of the Society and proceed to disallow the claim of exemption u/s 11 & 12 of the Act. Action of the A.O. was beyond jurisdiction. It has also been noticed in that order that the society was allowed registration under section 12A/12AA of the Act dated 9<sup>th</sup> October, 2000 and the assessee’s cases were scrutinized for the A.Ys. 1989-90, 1990-91 & 1995-96 wherein it was held that income of the society was exempt. As regards the contention of the Id. Authorised Representative regarding Society’s property, we agree with the contention of the Id. Authorised Representative that ‘property’ word used in section 11 is a term of widest import, and subject to any limitation or qualification which the context might require, it signifies every possible interest which a person can acquire, hold and enjoy. ‘Business’ would undoubtedly be ‘property’, unless there is something to the contrary in the enactment. There is nothing in the language of section 11 which restricts in any manner the normal and accepted meaning of the word ‘property’. In this regard, we may refer the judgment of Apex Court in the case of J.K. Trust vs. CIT, 32 ITR 535 (SC). Hon’ble Bombay High Court in the case of A.J. Patel vs. CIT, 97 ITR 683 (Bom) held that the right to exploit space on either side of an overbridge for advertisements is a ‘property’. In the light of the above discussion, we do not find any substance in the submissions of the Id. Departmental Representative, therefore, the same is dismissed.

8. As regards the objection of the Id. Departmental Representative in respect of disallowance of expenditure, we notice that the CIT(A) has rightly held that the A.O. himself accepted those expenses incurred for the purposes of the object of the Society as he made adhoc disallowance in part. The CIT(A) after verifying the facts satisfied that expenses were incurred for charitable purposes in accordance with the object of the Society.

9. In the light of the above discussion, we do not find any infirmity in the order of the CIT(A). The order of the CIT(A) is, therefore, confirmed.

10. As stated above that since the facts of the case for A.Y. 2006-07 are identical to the case for A.Y. 2005-06 of which detailed discussion has been made above, in the light of the same, order of the CIT(A) for A.Y. 2006-07 is also confirmed.”

**(D.1)** As facts and circumstances of the present appeal before us are identical to facts and circumstances for Assessment Years 2005-06 & 2006-07, 2008-09 and 2009-10 for which Co-ordinate Bench of ITAT has already taken view in favour of the assessee, vide aforesaid orders dated 31.08.2012, 07.09.2012 and 15.03.2013; we also decide the

*issues in dispute before us in favour of the assessee; respectfully following the aforesaid orders dated 31.08.2012, 07.09.2012 and 15.03.2013 of Co-ordinate Bench of ITAT. Accordingly, we decline to interfere with the impugned appellate order dated 05.09.2014 of Ld. CIT(A).*

**(E)** *In the result, appeal filed by Revenue is dismissed."*

**(D.1)** At the time of hearing, the Ld. AR of the Assessee as well Ld. Senior Departmental Representative ("Ld. Sr. DR", for short) of the Revenue were in agreement that the facts and the circumstances of the present year are identical to the facts and circumstances of Assessment Years 2010-11, wherein Coordinate Bench of ITAT, Delhi has already taken view in favour of the assessee. Vide order dated 16.01.2020 for Assessment Year 2010-11 in ITA no. 6735/DEL/2014, the issues in dispute have already been decided in favour of the assessee. We further note that the aforesaid order dated 16.01.2020 of Co-ordinate Bench of ITAT, Delhi for Assessment Year 2010-11 is based on orders of ITAT in assessee's own case, in which in identical facts and circumstances the issues in dispute were decided by ITAT in favour of the assessee (such as, order dated 31.08.2012 for Assessment Year 2005-06 & 2006-07 in ITA No.- 72 & 73/Agr/ 2011; order dated 07.09.2012 for Assessment Year 2008-09 in ITA No.- 04/Agr/2012; and order dated 15.03.2013 for Assessment Year 2009-10 in ITA No.- 500/Agr/ 2012.) Neither side has brought any materials for our consideration to persuade us to take a view different from the view already taken by Co-ordinate Bench of ITAT, Delhi in assessee's own case by aforesaid order dated 16.01.2020 of Co-ordinate Bench of ITAT, Delhi, wherein issues have been decided in favour of the assessee in identical facts. Neither side has brought to our attention any distinguishing

facts and circumstances for Assessment Year 2013-14 (to which the present appeal pertains) from facts and circumstances of the aforesaid order dated 16.01.2020 of Coordinate Bench of ITAT, Delhi. Moreover, both sides are in agreement that all the issues in dispute in the present appeal before us are squarely covered in favour of the assessee by aforesaid order dated 16.01.2020 of Co-ordinate Bench of ITAT, Delhi. In view of the foregoing; and respectfully following the aforesaid order dated 16.01.2020 of Coordinate Bench of ITAT, Delhi; we decline to interfere with the impugned appellate order dated 14.11.2017 of Ld. CIT(A); and dismiss the grounds of appeal. Consequently, appeal of Revenue is dismissed.

Our order was orally pronounced in Open Court on 02-09-2021, after conclusion of the hearing, in the presence of representatives of both parties. Now this order in writing is signed today on 07/09/2021.

**Sd/-**  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated: 07/09/2021

Pooja/-

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	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
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	