

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A' NEW DELHI**

**BEFORE SHRI G.S. PANNU, PRESIDENT
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No. 7646/Del/2018
Assessment Year: 2015-16**

Income-tax Officer (E),
Ward 1(1), Delhi.

vs. Association of Corporation &
Apex Societies of Handlooms
Room No. 32 & 33, 3rd Floor,
Handloom Hut, Near Gate No.2,
Near Indian Oil Building, Delhi.

PAN : AAATA0822C
(Appellant)

(Respondent)

Appellant by : Sh. Padampani Bora, Sr. DR
Respondent by: Sh. KVSR Krishnan, Adv.

Date of hearing: 10/11/2021

Date of order : 10/11/2021

ORDER

PER K. NARASIMHA CHARY, J.M.

Aggrieved by the order dated 05.09.2018 passed by the Commissioner of Income Tax (Appeals)-40, Delhi ("Ld. CIT(A)") for the assessment year 2015-16, in the case of Association of Corporation & Apex Societies of Handlooms("the assessee"), the Revenue preferred this appeal.

2. Brief facts of the case are that the assessee is a society registered under the Societies Registration Act, 1860 and also u/s. 12A of the Income-tax Act, 1961 ("the Act" for short) being constituted by the Development Commissioner (Handloom), Ministry of Textiles, Government of India with the main objective to promote the handloom sector and to act as an implementing agency for organizing exhibitions in different parts of the country for display and sale of handloom fabrics/cloth manufactured by the handloom weavers and handloom society. For the assessment year 2015-16, they have filed their return of income on 30.09.2015 declaring Nil income, which was subsequently revised on 16.10.2016, but the income was shown as Nil only.

3. Learned Assessing Officer by way of order dated 31.10.2017 passed u/s. 143(3) of the Act held that the activities of the assessee do not fall in the category of relief of poor, education, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest; and that the assessee's case cannot be considered under the concept of mutuality since the essence of mutuality lies in the return of what one has contributed to a common fund and unless there is a complete identity between the contributors and participators in a common fund, the principle of mutuality would not be attracted and after discussing the amendment to the proviso to section 2(15) and CBDT Circular No. 11/2008 dated 19.12.2008, determined the income of the assessee at Rs.1,95,17,220/-.

4. Assessee preferred appeal, aggrieved by the above act of the Id. Assessing Officer. By way of impugned order, Id. CIT(A) observed that the

facts of the case for this assessment year are same as those for the assessment years 2010-11 to 2014-15 and no new facts were brought on record by the Id. Assessing Officer. Learned CIT(A) further observed that for the assessment year 2010-11 to 2014-15, the issue was held in favour of the assessee, stating that the assessee cannot be said to be involved in carrying on any business, trade or commerce and, therefore, directed the Assessing Officer to allow the benefit of section 11 with consequential benefits. Since the facts are similar for all these years, Id. CIT(A) followed the earlier years' orders and directed the Id. Assessing Officer to allow the benefit of section 11 with all consequences for this assessment year 2015-16 also.

5. Revenue is, therefore, aggrieved and preferred this appeal, stating that the assessee is involved in the business activities, as the assessee has been providing facilities to Member Societies for fee, which is not charitable to qualify for exemption under the concept of mutuality and therefore, the proviso to section 2(15) of the Act is attracted and the assessee is not entitled to the benefit of exemption u/s. 11 of the Act.

6. Learned AR submitted that the facts of these years are similar and the Id. CIT(A) was right in allowing the benefit to the assessee. He further submitted that by order dated 22.02.2021 in ITA No. 6457/Del/2017 for the assessment year 2013-14, the Tribunal approved the action of the Id. CIT(A) in granting relief to the assessee.

7. We have gone through the record in the light of submissions made on either side. Absolutely, there is no dispute that the facts of the case involved for the assessment year 2015-16 are similar to those involved

for the assessment years 2010-11 to 2014-15. In the order dated 22.02.2021 in ITA No. 6457/Del/2017 for the assessment year 2013-14, a coordinate Bench of this Tribunal observed that for the assessment years 2010-11 and 2011-12, the relief was granted by the Tribunal by approving the action of the Id. CIT(A) in ITA Nos. 4788/Del/2016 and 2086/Del/2017 vide orders dated 27.03.2019 and 04.07.2019 respectively. Following the said orders, the Tribunal approved the action of the Id. CIT(A) in granting relief to the assessee.

8. Since the facts remain the same, the consistent view taken by the Tribunal in earlier assessment years needs to be followed and in the absence of any compelling reason, we find it difficult to take a different view. While respectfully following the view taken for the earlier assessment years in assessee's own cases, we uphold the findings of the Id. CIT(A) and consequently, dismiss the appeal of the Revenue.

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

Order pronounced in the open court on this the 10th day of November, 2021 immediately after conclusion of hearing on virtual mode.

Sd/-

(G.S. PANNU)
PRESIDENT

Sd/-

(K. NARSIMHA CHARY)
JUDICIAL MEMBER

Dated: 10/11/2021

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