

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'G' BENCH,
NEW DELHI (THROUGH VIDEO CONFERENCING]

BEFORE MS. DIVA SINGH JUDICIAL MEMBER, AND
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 55/DEL/2017 [A.Y 2012-13]

The I.T.O [E]
Ward - 2(2)
New Delhi

Vs. M/s St John Ambulance Association
Red Cross Bhawan, Golf Link
New Delhi

PAN: AADTS 7703 H

CO No. 52/DEL/2021
[A/o ITA No. 55/DEL/2017 (A.Y 2012-13)]

M/s St John Ambulance Association
Red Cross Bhawan, Golf Link
New Delhi

Vs.

The I.T.O [E]
Ward - 2(2)
New Delhi

PAN: AADTS 7703 H

(Applicant)

(Respondent)

Assessee By : Shri Arun Kishore, CA

Department By : Shri Umesh Takyar, Sr. DR

Date of Hearing : 30.11.2021

Date of Pronouncement : 03.12.2021

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the Revenue and cross objection by the assessee are preferred against the order of the Commissioner of Income Tax [Appeals] - 36, New Delhi dated 21.10.2016 pertaining to Assessment Year 2012-13.

2. The solitary grievance of the Revenue is that the Id. CIT(A) erred in ignoring the fact that the activities of the assessee are commercial in nature and squarely fall under the 'General Public Utility' and hits the proviso to Section 2(15) of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'].

3. Briefly stated, the facts of the case are that the assessee society is registered u/s 12A of the Act and is also notified u/s 80G of the Act. The assessee is engaged in imparting educating and training paramedics in the field of first aid, home nursing, hygiene safety and first-aid, fire safety, health and stress management, heart mark and care with CPR system, health management with diabetes care and Aids and Disaster management etc.

4. For imparting the above education there are booklets and published material which is provided to the students at subsidized costs. The above education and training programs are carried on at its centers in classrooms with trained lecturers including doctors and other specialists from the field. For providing above education, the guidelines for the lecturers and/or trainers are well laid out and documented for the assistance and guidance of lecturers and for providing proper education to the students in the desired fields.

5. Some of the procedures, guidelines and syllabi for courses offered include following lectures for dealing with emergencies and providing spot assistance before full-fledged medical /hospital facilities could be provided:

- Wound bleeding
- Blood Donation - circulatory system and first-aid
- Respiration
- Injuries to bones and joints
- Injuries to head and spine Poisoning
- Unconsciousness with conditions and reasons
- E &T Stomach

- Burn injuries
- Accidental injuries
- Civil defense

6. The above educational training helps in dealing with many critical injuries and m saving lives by providing timely assistance. The services of certified paramedics so educated and trained by the appellant are used by police stations, transport department, schools, colleges, industries, public institutions, government agencies, mass congregations like Republic day, Independence day besides utilizing their services at the time of natural calamities, enemy action, terrorist attacks, war or at other emergencies also.

7. During the course of scrutiny assessment proceedings, the Assessing Officer was of the firm belief that the amended provisions of section 2(15) of the Act applicable from Assessment Year 2009-10 squarely apply on the activities of the assessee society and formed a belief that the receipts arising out of activities are in the nature of rendering any service in relation to any trade, commerce or business for a cess or fee and receipts are more than Rs. 10 lakhs, the activities carried on by the

assessee falls under 'Advancement of any other object of public utility' and accordingly, applying proviso to section 2(15) of the Act, income of the assessee was assessed as normal AOP and denied exemption of income u/ss 11 & 12 of the Act and treated the whole of the surplus generated from business activities and taxed the same as normal business income.

8. The assessee carried the matter before the ld. CIT(A) and vehemently contended that the activities of the assessee society are same as they were in the past years and the Revenue has accepted the activities of the assessee as charitable activities.

9. After considering the facts and submissions, the ld. CIT(A) found that in the immediately preceding Assessment Year, i.e. 2011-12, his predecessor has granted exemption u/ss 11/12 of the Act and following the same, the ld. CIT(A) granted exemption and held that since the exemption is allowed, the issue of taxing surplus or total receipts becomes infructuous.

10. Before us, the ld. DR strongly supported the findings of the Assessing Officer.

11. Per contra, the ld. counsel for the assessee reiterated what has been stated before the lower authorities.

12. We have carefully perused the orders of the authorities below. It is apparent from the activities of the assessee that it is imparting First Aid training to students, schools, companies and institutions etc and in lieu thereof, charging fees from participants. We find that the receipts shown by the assessee are in the nature of fees for rendering services. These facts have not been disputed by the Assessing Officer.

13. We find that the Assessing Officer was heavily influenced by the provisions of section 2(15) of the Act and in particular, last limb of the section which covers the 'Advancement of any other object of 'General Public Utility'. Section 2(15) of the Act specifically covers the following activities as charitable activities:

- Relief to the poor;
- Education;
- Medical Relief; and
- Preservation of environment, monument or places/objects of artistic/ history interest.

14. Objects of 'General Public Utility' do not fall under any of these specific categories explicitly included in the definition of 'Advancement of any other object of General Public Utility' u/s 2(15) of the Act. There is no denial that the assessee society is imparting education and therefore, in our considered opinion, proviso to section 2(15) of the Act is not applicable to the assessee on the facts of the case.

15. The undisputed fact is that the assessee has been granted exemption since past many years and the nature of activities have not changed since its inception. Therefore, we do not find any reason why the Assessing Officer has taken a different view during the year under consideration. Considering the facts of the case in totality, in light of

assessment history of the assessee, we do not find any merit in the appeal of the Revenue and the same is dismissed.

16. The Cross objection has not been pressed and. as such, dismissed as not pressed.

17. In the result, the appeal of the Revenue in ITA No. 55/DEL/2017 as well as the cross objection in CO No. 52/DEL/2021 are dismissed.

The order is pronounced in the open court on 03.12.2021.

Sd/-

**[DIVA SINGH]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 03rd December, 2021

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

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