

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member
Shri Anubhav Sharma, Judicial Member**

**ITA Nos.1691 to 1694/Del/2020
Asstt. Years : 2009-10 to 2010-11**

ITO, Ward-2(1), Ghaziabad	Vs.	Windsor & Nova Apartment Owner Associates, RWA Office, Ashoka Road, Shipra Suncity Phase-II, Indirapuram, Ghaziabad
(APPELLANT)		(RESPONDENT)
PAN NO. AAAAW7263Q		

**Assessee by : Shri Narendra Solanki, CA
Revenue by : Shri M. Barnawal, Sr. DR**

Date of Hearing: 20.07.2022	Date of Pronouncement: 12.08.2022
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

These appeals have been filed by the revenue against the orders of the Id. CIT(A), Ghaziabad dated 28.06.2018.

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2. The AO treated the maintenance charges received by the assessee society as income of the assessee for the instant year. The Id. CIT(A) deleted the addition on the grounds that in the next year, the Assessing Authority have accepted the principle of mutuality and held that the assessee was eligible for the benefit of doctrine of mutuality and no demand was raised on the similar issue.

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3. The AO levied penalty of Rs.10,000/- u/s 271(1)(b) of the Income Tax Act, 1961 and the Id. CIT(A) dismissed the

appeal of the assessee being infructuous as the assessee has already deposited the penalty of Rs.10,000/-.

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4. The Id. CIT(A) confirmed the penalty levied u/s 271(1)(c) of Rs.1,71,855/- on the grounds that the addition has been confirmed to that extent.

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5. The AO allowed the subscription fees invoking the doctrine of mutuality and taxed the amounts received of Rs.6,60,000/- on disposal of waste and advertising income. The Id. CIT(A) enhanced the addition to Rs.6,69,783/-.

6. At the outset, the Id. DR submitted that the Id. CIT(A), Noida do not exercise the jurisdiction over the cases of Ghaziabad, the appeals ought to have been passed by Id. CIT(A) who has the jurisdiction as per the jurisdictional order of the CBDT. Hence, the matters are being remanded back to the file of the Id. CIT(A), Ghaziabad to adjudicate the matter afresh in accordance with the provisions of the Act.

7. In the result, the appeals of the revenue are allowed for statistical purpose.

Order Pronounced in the Open Court on 12/08/2022.

Sd/-

(Anubhav Sharma)
Judicial Member

Dated: 12/08/2022

Subodh Kumar, Sr. PS

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member