

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI**

**BEFORE
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 7675/Del/2018

Asstt. Year: 2015-16

Dy. Commissioner Income Tax(E), Circle-1(1), New Delhi. (Appellant)	Vs.	M/s. Association of Indian Universities 16, AIU House, Comrade Indrajit Gupta Marg, New Delhi-110 002 PAN AAATA0407F (Respondent)
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Assessee by:	None
Department by :	Shri Kanav Bali, Sr. DR
Date of Hearing	25.08.2022
Date of pronouncement	25.08.2022


ORDER

PER ASTHA CHANDRA, JM

The appeal filed by the Revenue is directed against the order dated 20.09.2018 of the Ld. Commissioner of Income Tax (Appeals)- 40, Delhi pertaining to the assessment year ("**AY**") 2015-16 .

2. At the outset, the Ld. Sr. DR submitted that no appeal has been filed by the department in the case of M/s. Association of Indian Universities for AY 2015-16 and that in Form No. 36 the assessment year has been erroneously typed as AY 2015-16 instead of AY 2014-15. He further submitted that the Revenue seeks withdrawal of appeal for AY 2014-15 in ITA No. 7675/Del/2018 pursuant to the direction received from the office of the Ld. CIT(E) Delhi vide letter F. No. CIT(E)/Judl/CIT(A)/1259/2019-20/1828 dated 11.09.2019. He drew our attention to a letter dated 25.08.2022 filed by the Revenue on the date of hearing addressed to the Sub Registrar, ITAT, New Delhi requesting that the appeal for the AY 2014-15

may be allowed to be withdrawn. The said letter dated 25.08.2022 is reproduced below:


 Office of the
Deputy Commissioner of Income Tax (Exemptions)
 Circle-1(1), Room No. 2418, 24th Floor, E-2 Block, Pratyaksh Kar Bhawan,
 Dr. S.P. Mukherjee Civic Centre, New Delhi - 110 002
 Phone No. 011-23234782 Email: delhi.dcit.exmp1.1@incometax.gov.in

F. No. DCIT(E)/Circle-1(1)/Judl./2022-23/155 Dated: 20.07.2022

To,

25/8/22

✓ The Sub Registrar
 A-Bench ITAT
 6th floor, Lok Nayak Bhawan
 New Delhi

Sir,

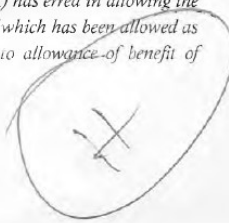
Subject: Intimation of decision to withdraw proposal of filing appeal in the case of M/s Association of Indian Universities for AY 2014-15 in ITA no. 7675/Del/2018-regarding. Fix. CN 25-B-2022.

Kindly refer to above subject.

In this regard, the appeal filed before Hon'ble ITAT in the case of **M/s Association of Indian Universities for AY 2014-15 in ITA no. 7675/Del/2018** is withdrawn in pursuance to direction (copy enclosed) received from the office of the CIT(Exemption), Delhi vide letter F.No. CIT(E)/Judl./CIT(A)/1259/2019-20/1828 dated 11.09.2019.

The proposal to file appeal before ITAT in the above case was filed on the following grounds:

1. *On the facts and in circumstances of the case and in law, Ld CIT(A) has erred in holding that the assessee society is involved in imparting education despite the fact that the assessee society was engaged in activities of selling and publishing and also earning income from advertisement which is in the nature of business, trade within the meaning of amended proviso to section 2(15) of the Act.*
2. *On the facts and in circumstances of the case and in law, Ld CIT(A) has erred in allowing the claim of depreciation for the assets purchased in earlier years, cost of which has been allowed as application of income, such claim being consequential in nature to allowance of benefit of exemption to the assessee.*



Further, CBDT has already accepted that the assessee society falls within the term 'education' and the issue of depreciation is already decided in favour of the assessee by the Hon'ble Supreme Court in the case of Commissioner of Income Tax-III, Pune vs. Rajasthan and Gujarati Charitable Foundation, Poona. And it has also been decided by the CBDT that all pending appeals of the assessee pending before ITAT and High Court on this issue, if any, may be withdrawn.

It is also pertaining to mentioned here that no appeal has been filed by the department in the case of M/s Association of Indian Universities for AY 2015-16, in form 36 the assessment year erroneously typed A.Y. 2015-16 instead of 2014-15.

In view of the above, the aforementioned appeal pending before ITAT for the AY 2014-15 may kindly be withdrawn.

Submitted for necessary action at your end.

Encl: As above

Yours faithfully,



(Ashish Chandra)
Deputy Commissioner of Income Tax (E)
Circle-1(1), New Delhi

Copy to:

1. The Commissioner of Income Tax(Exemption), New Delhi.
- ✓ 2. The Commissioner of Income Tax (DR), ITAT, New Delhi.
3. The Addl. Commissioner of Income Tax (Exemption), Range-1, New Delhi.

Deputy Commissioner of Income Tax (E)
Circle-1(1), New Delhi

3. None appeared for the assessee.

4. In view of the above, we accept the request of the Revenue for withdrawal of the appeal in ITA No. 7675/Del/2018 and the appeal is dismissed as withdrawn.

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

Order pronounced in the open court at time of hearing on 25th August, 2022.

sd/-

sd/-

(N.K. BILLAIYA)
ACCOUNTANT MEMBER

(ASTHA CHANDRA)
JUDICIAL MEMBER

Dated: /08/2022

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Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
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	