

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "C", BANGALORE**

Before Shri George George K, JM & Ms.Padmavathy S, AM

ITA No.706/Bang/2022 : Asst.Year 2012-2013

ITA No.707/Bang/2022 : Asst.Year 2013-2014

The Income Tax Officer (Exemption) Ward 1 Bengaluru.	v.	M/s.Electronic City Industries Association, No.57, 58 Hosur Road, Electronic City Bangalore - 561 229.
(Appellant)		(Respondent)

Appellant by : Smt.Priyadarshini Baseganni, Addl.CIT-DR

Respondent by : --- None ---

Date of Hearing : 19.09.2022	Date of Pronouncement : 19.09.2022
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ORDER

Per George George K, JM :

These appeals at the instance of the Revenue are directed against two orders of the CIT(A) dated 23.06.2022 and 16.06.2022 for assessment years 2012-2013 and 2013-2014, respectively. Common issue is raised in these appeals, hence, they were heard together and are being disposed of by this consolidated order.

2. Identical grounds are raised in these appeals. The grounds raised read as follows:-

"1. The order of the CIT(A) is opposed to law and facts of the case.

2. The ld.CIT(A) erred in holding that the assessee is eligible for exemption u/s 11 & 12 of the Act, even when the activities of the assessee are hit by the proviso to section 2(15) of the Income-tax Act amended w.e.f. 01.04.2009, as the assessee is involved in providing specific services to the industries located in Electronic City on the payment of an annual maintenance fees;

3. *The ld.CIT(A) erred in holding that the assessee is not hit by the proviso to sec.2(15) of the Income-tax Act, when the assessee has engaged in advancement of any object of general public utility, and the turnover is in excess of Rs.25 lakhs for the current assessment year out of its commercial activities.*

4. *The ld.CIT(A) erred in allowing exemption u/s 11 when the case of the assessee is clearly hit by provisions of amended proviso to section 2(15) and as per CBDT's Circular No.11 dated 19.12.2008, the assessee is not eligible to claim exemption u/s 11.*

5. *The appellant craves leave to add, alter or amend all or any of the grounds of appeal before, or at the time of the hearing of the appeal.*

6. *The order of the learned CIT(A), NFAC, may be set aside and the order of the Assessing Officer may be confirmed."*

3. The brief facts of the case are as follows:

The assessee is a Trust, registered u/s 12A of the I.T.Act. It is engaged in maintenance, upkeep, development beautification, improvement, provision of amenity, security and infrastructure, etc. to the entire area designated as Electricity City, Bangalore. For the assessment years 2012-2013 and 2013-2014, the returns of income were filed declaring 'Nil' income after claiming exemption u/s 11 of the I.T.Act. The assessments were completed for assessment years 2012-2013 and 2013-2014 by denying exemption claimed u/s 11 of the I.T.Act. The A.O. invoked the provisions of proviso to section 2(15) of the I.T.Act and relied on the CBDT Circular No.11 dated 19.12.2008. The A.O. held that the assessee is involved in running of services in the form of maintenance & provisions of various facilities to different companies, firms etc. for fees and the assessee was not eligible for exemption u/s 11 of the I.T.Act.

4. Aggrieved, the assessee filed appeals before the first appellate authority. The CIT(A) by following the judgment of the Hon'ble jurisdictional High Court in the case of Karnataka Industrial Area Development Board v. Addl. Director of Income-tax (Exemption) Bangalore reported in (2020) 121 taxmann.com 88 (Karnataka) and the order of the ITAT in assessee's own case for assessment year 2011-2012 in ITA No.764/Bang/2016 dated 21.02.2018, held that the assessee is entitled to exemption u/s 11 of the I.T.Act for the assessment years 2012-2013 and 2013-2014.

5. Aggrieved by the orders of the CIT(A), the Revenue has filed the present appeals before the Tribunal. None was present on behalf of the assessee, however, we proceeded to dispose of the cases after hearing the learned Departmental Representative. The learned DR apart from relying on the grounds raised, submitted that the judgment of the Hon'ble jurisdictional High Court in the case of Karnataka Industrial Area Development Board (supra) is distinguishable on facts, since the said assessee was essentially engaged in the development of industrial area in the State of Karnataka. Further, the learned DR submitted that the A.O. may be directed to examine / verify whether the assessee has satisfied the provisions of section 11 of the I.T.Act insofar as the application of income is concerned for availing the exemption u/s 11 of the I.T.Act.

6. We have heard the learned DR and perused the material on record. On identical facts in assessee's own case, the Tribunal for assessment year 2011-2012 (supra) had held that the dominant object of the assessee is not profit motive and does not derive any income out of its activities which are commercial in nature . The relevant finding of the Tribunal in assessee's own case for assessment year 2011-2012 has been extracted in the impugned order of the CIT(A) (para 6.1 of impugned CIT(A)'s order for assessment year 2012-2013 and para 7.1 of the impugned order of the CIT(A) for assessment year 2013-2014), hence, the same is not reproduced herein. As rightly directed by the CIT(A), the A.O. shall examine / verify whether the assessee has satisfied the provisions of section 11 of the I.T.Act insofar as the application of income is concerned for availing the exemption u/s 11 of the I.T.Act. In view of the order of the Tribunal in assessee's own case for assessment year 2011-2012 (supra), we reject the grounds raised by the Revenue for assessment years 2012-2013 and 2013-2014.

7. In the result, the appeals filed by the Revenue are dismissed.

Order pronounced on this 19th day of September, 2022.

Sd/-
(Padmavathy S)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 19th September, 2022.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-NFAC Delhi
4. The Pr.CIT, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore