

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI S. R. RAGUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.: **14 & 15/Chny/2020**

निर्धारण वर्ष / Assessment Years: 2011-12 & 2012-13

Caruna Bal Vikas, Deputy Commissioner of
C/o CA. John Ravindran Moses, v. Income Tax (Exemptions),
John & Julian, Chennai Circle,
Charatered Accountants, Chennai.
B-403,
Prince Garden, 40,
Thambusamy Road,
Kilpauk, Chennai.

[PAN: AAATC-3951-G]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. T.V. Muthu Abirami, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri. V. Nandakumar, CIT

सुनवाई की तारीख/Date of Hearing : 25.04.2024

घोषणा की तारीख/Date of Pronouncement : 12.06.2024

आदेश /ORDER

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

These two appeals filed by the assessee are directed against the common order passed by the learned Commissioner of Income Tax (Appeals)-17, Chennai, dated 06.11.2019 and pertains to assessment years 2011-12 & 2012-13. Since, facts are identical and issues are common,

for the sake of convenience, these appeals were heard together and are being disposed off, by this consolidated order.

2. The assessee has raised common grounds of appeal for both the assessment years. For the sake of brevity grounds of appeal filed by the assessee for assessment year 2011-12 are reproduced as under:

1. *"The CIT(Appeal) erred in directing the AO to make a fresh assessment based on the directions of the Hon'ble ITAT for an earlier year AY 2010-11. There was no direction from the Hon'ble ITAT for the AY 2011-12 and it is beyond the authority of the CIT(A) to direct the AO to direct a fresh assessment at the time of disposal of appeal.*
2. *The CIT(A) erred in referring the cases to AO when he himself has upheld the AO's decision to delete channel partner grants for the AY 2010-11. The appellant had no other issue under appeal it was aggrieved only on one issue for assessment year 2011-12 i.e. the disallowance of channel partner grant which has been settled both by the AO and CIT(A) for the assessment year 2010-11.*
3. *The order of the CIT(Appeal) vague and ambiguous as in para 6 of the order he has partly allowed the appeal, but the assessee's dispute pertained only to one issue which was the project grants given to 12AA registered channel partners extent of Rs. 64.26 crore for the Assessment Year 2011-12 such grants have already been deleted in year AY 2010-11.*
4. *That the appellant craves leave to add to, alter, amend, modify, substitute, delete and/or rescind all or any of the GROUNDS OF APPEAL on or before the final hearing, if necessity so arises."*

3. The brief facts are that, the assessee is a society registered under the Tamilnadu Registrar of Societies Act, 1976. The assessee is also registered u/s. 12AA of the Income-tax Act, 1961 (hereinafter referred to as "the Act"). The main object of the society is development of poor and under-privileged children and their care givers all over India through projects and programs that will assist in the education, health care and social development. In furtherance of its objects, the assessee received restricted foreign contribution from M/s. Compassion International (CI), Colorado Springs, Colorado 80997 USA. The registered project grants were received in compliance with the Foreign Contribution (Regulation) Act, 2010.

4. The assessee society filed its return of income for the assessment years 2011-12 and 2012-13 on 26.09.2011 and 26.09.2012 respectively, after claiming the deduction u/s. 11 of the Act and admitting the taxable income of Rs. Nil for both the assessment years. The cases were selected for scrutiny and the Assessing Officer, concluded the assessments for assessment years 2011-12 and 2012-13 respectively, by passing orders dated 31.03.2014 and 31.03.2015, (i) denying

exemption u/s. 11 of the Act for an amount of Rs.60,62,95,859/- and Rs.63,77,24,623/- (ii) disallowed administration expenses to the tune of Rs.4,96,58,558/- and Rs.6,76,79,708/- are not eligible as application of funds. Aggrieved by the impugned order of the Assessing Officer, the assessee preferred an appeal before the Id. CIT(A).

5. The assessee pleaded the Id. CIT(A) to consider the decision of the coordinate bench of the Tribunal in assessee's own case for the assessment year 2010-11 and to set aside the order of the Assessing Officer for the assessment year 2011-12 & 2012-13 with a specific direction. However, the Id.CIT(A) has passed order as detailed below:

4. The ITAT 'C' Bench, Chennai in the assessee's own case for the AY.2010-11 set aside the assessment vide its Order in ITA No.376/Mds/2014 dated 05.02.2015 as under:

"6. We have heard the submissions made by the representatives of both the sides and have perused the orders of the authorities below. In appeal, the assessee has primarily raised the following two issues:

(i) Whether the amount of Rs.50 crores, which has been given by the assessee to its "channel partners" for carrying out charitable activities, fall within the scope of sec.13(1)(b) of the Act?

(ii) Whether the disallowance of depreciation amounting to Rs.65,91,434/- amounts to application of income?

The Id. Counsel for the assessee in order to substantiate his submissions, has filed 35 volumes of paper books containing detailed information regarding "channel partners", their activities, amounts advanced to them by the assessee, application of funds including details of beneficiaries, etc. These details were not provided in an exhaustive manner before the authorities below. We are of the considered opinion that the first issue raised by the assessee in its appeal, is a question of fact, which has to be decided after examination of the data and information filed by the assessee. To answer the first issue, it is essential to examine the objects of "channel partners" and verify the activities performed by them. For proper adjudication of the issue, we deem it appropriate to remit the file back to the Assessing Officer to decide the issue afresh after analyzing the exhaustive information and data filed by the assessee

5. The facts and the additions made in the A.Ys 2011-12 and 2012-13 are the same as those in the A.Y 2010-11.

Hence the Assessing Officer is directed to follow the directions given by the Hon'ble ITAT in A.Y 2010-11 in the order vide ITA No.376/Mds/2014 dated 05.02.2015 for the A.Ys 2011-12 and 2012-13 also.

6. In the result, the 2 appeals of the assessee are partly allowed."

Aggrieved by the impugned order of the Id.CIT(A), the assessee preferred an appeal before us.

6. The Id.AR brought to the notice that there was no direction from the Hon'ble Tribunal for the assessment year 2010-11 for fresh assessment and the Id.CIT(A) has erred in

following the order of the Tribunal directing the Assessing Officer to make a fresh assessment at the time of disposal. Therefore, the assessee pleads that the order of the Id.CIT(A) is vague and ambiguous as in Para 6 of the order (Supra), he has partly allowed the appeal. The assessee's dispute pertained to the same issue which was dealt in the order of the Tribunal in assessment year 2010-11, that the project grants given to 12AA registered channel partners to the extent of Rs.64.26 crores for the assessment year 2011-12 and Rs.68.79 crores for the assessment year 2012-13, has been considered by the Hon'ble Tribunal and given a direction to the Assessing Officer to examine the objects of channel partners and verify the activities performed by them. Therefore, assessee prays for setting aside the order of the Id.CIT(A) and remit the issue back to the file of the Assessing Officer.

7. Per contra, the Id.DR has stated that he relies on the orders of the Assessing Officer and the Id.CIT(A).

8. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. Upon perusal of case records and after considering the

tribunal decisions in assessee's own case for the assessment year 2010-11 in ITA NO. 376/Mds/2014 dated 05.02.2015, we are of the considered view that the directions given by the Tribunal to the Assessing Officer to examine the objects of channel partners and to verify the activities performed by them. Consequently, following the decision of the coordinate bench, we direct the Assessing Officer to follow the directions given by the Tribunal in assessee's own case for assessment year 2010-11 (Supra) and remit back the issue to the file of the Assessing Officer for both the assessment years, by setting aside the order of the Id.CIT(A).

9. In the result, appeals filed by the assessee for both the assessment years are allowed for statistical purposes.

Order pronounced in the court on 12th June, 2024 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /**Vice President**

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGUNATHA)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 12th June, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Chennai/Coimbatore/Madurai/Salem

4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF