

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C': NEW DELHI
BEFORE,**

**SHRI G.S.PANNU, VICE PRESIDENT
AND**

MS. MADHUMITA ROY, JUDICIAL MEMBER

**ITA No.5207/Del/2018
(ASSESSMENT YEAR 2013-14)**

M/s Inner Strength Foundation, D-156, Sector -8 Dwarka, New Delhi - 110075 PAN- AAATI4987J (Appellant)	Vs.	Income Tax Officer (E) Ward -1(2), New Delhi (Respondent)
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Appellant By	Dr. Rakesh Gupta & Mr. Deepesh Garg
Respondent by	Ms.Parul Singh
Date of Hearing	27/06/2024
Date of Pronouncement	26/07/2024

ORDER

PER MADHUMITA ROY, JM:

The instant appeal filed by the assessee is directed against the order dated 03.05.2018 passed by the Id. CIT(A)-40, Delhi, arising out of

the order dated 17.03.2017 passed by the ITO (Exemption)-1(2) New Delhi under Section 143(3) of the Act whereby and whereunder the disallowance of benefit of exemption under Section 11 & 12 of the Act made by the Id. AO has been confirmed by the First Appellate Authority for the year 2013-14.

2. The brief fact leading to the case is this that during the course of assessment proceedings it was found that the assessee trust owns and maintain a website under the name shivyog.com and incurs sizable expenditure on telecast of programs on a number of TV channels, relating to discourses of trustee mainly Babaji; information about shivirs being organized by the shivyog group are displayed. In fact the assessee trust has been set up by Smt. Sadhna Ratra vide trust deed on 29.04.2002. The trustee is consisting of herself, her husband Shri Avdhoot Baba Shivananda (Babaji) and her son Shri Ishaan R. Shivananda. Further that all these family members are mutual trustee in 3 other trust namely i.e (i) Shiv Yog foundation; (ii) Shiv Kripa Foundation and (iii) World Spiritual Healing Foundation. The information related to the other entities and the trustee are also available on the abovementioned website. In that view of the matter the Id. AO was of the opinion that the benefit of the website of the assessee and TV programs paid for by the assessee is directly or indirectly extended to persons specified under Section 13(3) which is an infringement of Section 13(1)(c) of the Act. The same persons have interest in a number of companies of which Geetanjali Yog LLP is one of them. These trusts are mainly engaged in holding spiritual camps where spiritual/religious discourses are held and participants are introduced to various modes of meditation.

3. During the year under consideration the assessee incurred the expenses of Rs.71,38,072/- on account of 'Spiritual Awareness Media Expenses'. It is the case of the assessee that programs of Shivyog Group are telecast on Aastha Channel and other channels too and Spiritual Awareness Media Expenses incurred by the assessee are on account of telecast on TV programs featuring Babaji, in which he gives discourses. Apart from that information regarding upcoming shivirs are also displayed on those channels the; information relating to the identical activities of the Shivyog group as a whole is also available on the website of the assessee i.e Shivyog.com. It is pertinent to note that shivyog.com is the only website maintained by the Shivyog trust.

4. Having regard to this particular aspect of the matter, the AO was of the opinion that the benefit of the website of the assessee and TV programs paid for by the assessee directly or indirectly extended to persons specified under Section 13(3) which is an infringement of Section 13(1)(c) of the Act and having been violated these particular provision of Section 13(1)(c) by providing benefit to the person specified under Section 13(3) of the Act by way of incurring 'Spiritual Awareness Media Expenses' of Rs.71,38,072/- for the promotion of programs of other entities of the Shivyog group, benefit of exemption claimed under Section 11 and 12 were denied to the assessee. As the said expenses also applied for the benefit of the other entities, 20% of these expenses i.e. Rs.14,27,614/- therefore, disallowed as not incurred for the purpose of assessee and added back to the total income of the assessee which was further confirmed by the First Appellate Authority.

4. At the time of hearing of the instant appeal, the ld. Counsel appearing for the assessee submitted before us that though the exemption claimed under Section 11 and 12 of the Act has been denied by the ld. AO solely on the basis of expenses incurred on 'Spiritual Awareness Media Expenses' by the assessee for reason has already hereinabove mentioned by us the same, however, the same has been allowed in assessee's own case for A.Y. 2016-17 by the ld. AO. A copy of the assessment order is annexed at page 64 of the paper book filed before us.

In that view of the matter, the ld. A.R prayed for setting aside the issue to the file by the ld. AO for reconsideration of the issue involved in this particular appeal before us. In the light of the order passed by the AO in assessee's own case for A.Y. 2016-17. Such submission made by the ld. AR has not been controverted by the ld. D.R with all his fairness.

5. Having heard the ld. Counsels appearing for the parties and having regard to the facts and circumstances of the case, we are of the considered opinion that in view of the order passed by the ld. AO for AY. 2016-17 in assessee's own case granting exemption claimed under Section 11 and 12 of the Act, the matter be remited to the file of the ld. AO for adjudication of the same afresh. With the aforesaid direction we therefore, quash the order passed by the authorities below and remit the issue to the file of the ld. AO for consideration of the issue involved in this matter afresh particularly having regard to the order already passed by the ld. AO in assessee's own case for A.Y. 2016-17. The ld. AO is further directed to grant an opportunity of being heard to the assessee and to consider the evidence on record or any other evidences which the assessee may choose to file in support of his case before the ld. AO. With

the aforesaid observation the assessee's appeal is allowed for statistical purposes.

6. The Ground Nos. 1, 2 & 5 are allowed.

7. The Ground Nos. 3 & 4 are not pressed and not required any adjudication therefore the same stand dismissed.

8. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 26.07.2024

Sd/-
(G.S.PANNU)
VICE PRESIDENT

Sd/-
(MS. MADHUMITA ROY)
JUDICIAL MEMBER

Dated: 26/07/2024

Rohit/p.s

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI