

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

ITA.No.453/Coch/2023
Assessment Year - 2013-2014

The Tea Trade Association of Cochin, IG Road, Willingdon Island, KOCHI – 682 003. KERALA. PAN AAAC8756B	v.	The DCIT (Exemption), CR Bldg., IS Press Road, KOCHI – 682 018. KERALA.
(Appellant)		(Respondent)

Appellant by : Shri Thomas Thomas, CA
Respondent by : Shri Dr. S. Pandian, CIT-DR

Date of Hearing : 22.08.2024	Date of Pronouncement : 07.11. 2024
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ORDER

PER BENCH :

This assessee's appeal, for assessment year 2013-2014, arises against the order of the Commissioner of Income-tax (Appeals)-National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1052421747(1), dated 28.04.2023, in

proceedings u/s.143(1) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. The sole substantive grievance of the assessee before us is denial of exemption claimed u/s.10 of the Act and in the alternate not granting deduction of 15% u/sec.11(1)(a).

3. We find that the assessee is a Trade organisation duly registered u/sec.12A of the Act. In the ITR the assessee claimed exemption u/sec.10 for Rs.13,83,000/- on 'Doctrine of Mutuality' received in respect of membership subscription(s) and admission fees. The CPC denied the claim solely for not mentioning the relevant section and further affirmed by the learned CIT(A). We find CBDT circular no.811/2008 dated 19.12.2008 reads as under :

"3.1. There are industry and trade associations who claim exemption from tax u/s.11 on the ground that their objects are for charitable purpose as these are covered under 'any other object of general public utility'.

Under the principle of mutuality, if trading takes place between persons who are associated together and contribute to a common fund for the financing of some venture or object and in this respect have no dealings or relations with any outside body, then any surplus returned to the persons forming such association is not chargeable to tax, in such cases, there must be complete identity between the contributors and the participants. Therefore, where industry or trade associations claim both to be charitable institutions as well as mutual organizations and their activities are restricted to contributions from and participation of only their members, these would not fall under the purview of the proviso to section 2(15) owing to the principle of mutuality. However, if such organizations have dealings with non-members, their claim to be charitable organizations would now be governed by the additional conditions stipulated in the proviso to section 2 (15).”

4. On perusal of para 3.1 of the said CBDT's order we find that the case of assessee is duly covered by the same and there being no fact placed by the Revenue, the amount deals with non-members, we are of the view that proviso to sec.2(15) shall not apply and the claim of assessee's exemption u/sec.10 of the Act is allowable.

5. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on this 7th day of November, 2024.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Cochin ; Dated : 7th November, 2024.

VBP/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT Concerned.
4. The DR, ITAT, Cochin.
5. Guard File.

Asst.Registrar/ITAT, Cochin