

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
AGRA BENCH, AGRA**

**BEFORE : SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

ITA Nos.376/Agr/2019  
Assessment Year: 2009-10

Mathura Development Authority 32, Civil Lines, Mathura (UP).	Vrindavan	<b>Vs.</b>	CIT (Exemption), Lucknow.
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With  
ITA Nos. 419/Agr/2015  
Assessment years :2010-11

Mathura Development Authority 32, Civil Lines, Mathura (UP).	Vrindavan	<b>Vs.</b>	ACIT, Circle-3, Mathura
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And  
ITA Nos. 118 & 119/Agr/2018  
Assessment years : 2012-13 & 2013-14

Mathura Development Authority 32, Civil Lines, Mathura (UP).	Vrindavan	<b>Vs.</b>	CIT (Exemption), Ghaziabad.
<b>PAN : AAALM0135A</b>			
<b>(Appellant)</b>			<b>(Respondent)</b>

Assessee by	Sh. Shashank Agrawal, Advocate
Department by	Sh. Sukesh Kumar Jain, CIT(DR)

Date of hearing	11.02.2025
Date of pronouncement	11.02.2025

**ORDER**

**Per Satbeer Singh Godara, Judicial Member:**

The instant batch of four cases involves the single assessee herein, namely, Mathura Vrindavan Development Authority. All other relevant details thereof are tabulated as under:

Sl. No.	Appeal No.	Appellant	Respondent	Order Appealed against
1.	376/Agr/2019 A.Y. 2009-10	Mathura Vrindavan Development Authority	CIT(Exemption), Lucknow	CIT(exemption) Lucknow's Order dated 15.01.2019, involving proceedings u/s. 263 .
2.	419/Agr/2015 A.Y. 2010-11	Mathura Vrindavan Development Authority	ACIT, Circle-3, Mathura	CIT(A)-II Agra's order dated 16.03.2015 in Appeal No. 169/CIT(A)-II/Agra/ACIT-3/Mathura/2012-13 involving proceedings under section 143(3).
3.	118/Agr/2018 A.Y. 2012-13	Mathura Vrindavan Development Authority	ACIT, Circle (Exemption), Ghaziabad.	CIT(A)-2 Agra's order dated 29.09.2017 in Appeal No. 92/CIT(A)-2/Agra/ACIT(E)/Ghaziabad/2015-16 involving proceedings under section 143(3).
4.	119/Agr/2018 A.Y. 2013-14	Mathura Vrindavan Development Authority	ACIT, Circle (Exemption), Ghaziabad.	CIT(A)-2 Agra's order dated 29.09.2017 in Appeal No. 33/CIT(A)-2/Agra/JCIT(E)/Ghaziabad/2016-17 involving proceedings under section 143(3).

2. Shri Shashank Agrawal, Advocate represents the assessee. Shri S.K. Jain, learned CIT(DR) has filed an adjournment letter stating that since unprecedented number of cases are fixed for hearing, he is unable to assist the Bench. We make it clear that since, all these cases are old

appeals filed way back in the year 2015, 2018 and 2019, as the case may be, we see no merit in the aforesaid adjournment petition. The same stands rejected.

3. The assessee's "lead" case ITA No. 419/Agr/2019 for A.Y. 2010-11 raises the following substantive grounds as under :

"1. THAT, the assessment for A.Y. 2009-10 was completed u/s 143(3)/147 vide order dated: 29.09.2016 but the learned 'CIT (Exemption)' issued a show cause notice dated: 10.02.2017 under section 263 of the income tax act, 1961 for the revision of the order passed by the Assessing Officer.

2 That even after the proper reply to show cause notice the CIT (Exemptions) has passed order u/s 263 for the revision of the order on 15.01.2019.

3 That the grounds for the order u/s 263 is as follows:-

(i) That the cash deposit of Rs. 10,26,830/- during the A.Y. 2009-10 was not verifiable at the time of initiation of proceedings under section 147/148 of the Income Tax Act, 1961.

(ii) That the assessment was carried out without making enquiries or even placing the copy of return, copy of audit report, balance sheet, income and expenditure account etc. even gross receipt and surplus during the year is not given in order on record.

(iii) That the registration granted to the assessee u/s 12AA was withdrawn by the CIT - 1, Agra vide order dated: 09.11.2012 with effect from A.Y. 2009-10. The assessee's appeal against this order was allowed by ITAT but revenue's appeal in High Court is still pending.

4. That the grounds for appeal is as follows: -

(i) That the notice u/s 133 (6) of the Income Tax Act was issued to the assessee regarding the cash deposition and in response to this, due and proper reply was furnished to the Income Tax Officer (Exemption), Agra on 14.03.2016 along with copy of audited balance sheet.

Further, the case was re-opened on the pretext of the income assessment as the cash deposition was not verifiable. However, the assessee has raised objection towards the re-opening of the assessment. But, the objections raised by the assessee were disposed off by the Assessing Officer without giving any comment.

Further, that the proceedings were initiated on the ground that the case was not verifiable however, no such position exist after the proceedings as the order passed by the Assessing Officer clearly state that All the issues related to the case were discussed with the Authorized Representative of the Assessee and Details of cash deposit was also furnished by the assessee. Looking into all these facts, it is very much evident that the cash was duly verified and this is not a legal ground to re-open the assessment.

(ii) That the assessment order passed by the Assessing Officer clearly indicates that the Return was filed on 29.09.2009 declaring Income of Rs. NIL claiming exemption under section 11 of the Act. Accounts are duly audited by a Chartered Accountant. From these averments, it is much evident that the Assessee has properly furnished the Return of income and Audited Balance Sheet. Further, all relevant details/materials were also produced before Assessing Officer for verification.

(iii) That the High Court has also decided the appeal in favour of the Assessee in relation to the grant of registration u/s 12AA of the Income Tax Act, 1961.

(iv) That in view of the matter as well as in facts and circumstances of the case, the order dated: 15.01.2019 passed by the CIT (Exemption) is bad on facts and in law, deserves to be quashed.”

4. It next emerges from the records that the question as to whether the instant case of the assessee are covered under section 2(15) 1<sup>st</sup> Proviso, happens to be a recurring issue between the parties wherein the matter had travelled upto the apex court. And that the Revenue's Special Leave Petition stood dismissed along with other group cases reported in ACIT vs. Ahmedabad Urban Development Authority (2022) 143 taxmann.com 278(SC). Coupled with this, learned counsel has taken us to para-B.4 at page 96 thereof deciding the issue in assessee's favour as under :

“B.4 For the period 01 04 2003 to 01 04 2011, a statutory corporation could claim the benefit of Section 2(15) having regard to the judgment of this Court in the Gujarat Maritime Board case (supra) Likewise, the denial of benefit under Section 10(46) after 01 04 2011 does not preclude a statutory corporation, board, or whatever such body may be called, from claiming that it is set up for a charitable purpose and seeking exemption under Section 10(23C) or other provisions of the Act.”

We make it clear that the Revenue's grounds nowhere pin-point any material that the assessee herein has violated any condition of charitable activities as per “Gujrat Maritime Board”.

5. So far as assessee's appeal ITA No. 376/Agr/2019 for the assessment year 2009-10 in section 263 revision proceedings is concerned, the same is admittedly covered in the period from 01.04.2003 to 01.04.2011 in very terms. We , thus, reverse learned CIT(Exemption)'s order passed u/s. 263 of the Act.

7. So far as assessee's latter twin appeals ITA Nos. 118/Agr/2018 and 119/Agr/2018 for assessment years 2012-13 and 2013-14 are concerned, we deem it appropriate to restore the matters back to the Assessing Officer for his fresh appropriate adjudication without commenting anything on merits of the issue(s) raised herein. Ordered accordingly.

8. To sum up, assessee's former twin appeals ITA Nos. 376/Agr/2019 and 419/Agr/2015 stand allowed and its as many latter cases ITA Nos. 118 & 119/Agr/2018 are allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files.

***Order pronounced in the open court on 11<sup>TH</sup> February, 2025.***

**Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER**

**Sd/-  
(SATBEER SINGH GODARA)  
JUDICIAL MEMBER**

Dated: 11<sup>TH</sup> February, 2025.