

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH "SMC" NEW DELHI)**

BEFORE SHRI B.P. JAIN, ACCOUNTANT MEMBER

**ITA No. 6188/Del./2016
Assessment Year: 2010-11**

Sopori Academy of Music and performing Arts 21/79, Lodhi Colony, New Delhi	Vs.	ITO (Exemptions) Trust Ward-II Civil Centre, New Delhi
(Applicant)		(Respondent)
(PAN: AAFTS0892P)		

Assessee by: Sh. Ranjan Chopra, C.A.

Revenue by: Ms. Bedobina Chaudhari, Sr. DR

Date of hearing	08/03/2017
Date of pronouncement	10/03/2017

ORDER

PER B.P. JAIN, ACCOUNTANT MEMBER:

1. This appeal of the assessee arises from the order of Id. CIT(A)-36, New Delhi vide order dated 29.09.2016 for the A.Y. 2010-11. The assessee has raised the following revised grounds of appeal only on one issue i.e. denying exemption u/s 11 and 12 of the Act which was confirmed by the Id. CIT (A).

2. I have heard the rival contentions and perused the facts of the case. The society is registered u/s 12A of the Act vide order dated 5.5.2005 and also registered u/s 80G of the Act vide letter dated 8.10.2007. The assessee is the society created with the main objects as under:-

“The assessee society is created with the following main objectives:-

- a. To identify, recognise, promote talent in the field of light folk music, classical music, instrumental music and any other such related music and performing arts.
- b. To promote, develop and nurture such artists from all parts of India especially from far flung areas like Kashmir, Himanchal Pradesh, Northeastern states etc.
- c. To promote, develop and patronize such talented artists in such manner so that their talent is not extinguished or goes waste or unnoticed.
- d. To provide platform or opportunities to such artists so that they are able to demonstrate their talent. To provide an opportunity to these artists to represent, serve and lead their country.
- e. To conduct and sponsor programme, charitable shows, functions that address the area of development and recognition of talent of artists and generate public awareness with regard to artist and his talent and which promote the objects of the trust.”

3. The Id. counsel for the assessee made submission before Id. CIT (A) and before us, activities of the assessee trust is that of holding Sangeet Sammelans and Music Festivals for promotion of music and music artists can neither be considered an activity in the nature of trade, commerce or business and nor the sponsorship fee and financial aids received by the assessee trust can be said to be a receipt in the nature of trade, commerce or business. It was also clarified that the nature of receipts under all heads (other than interest and donation) are primarily in the form of voluntary contributions by way of sponsorship and financial aids provided by cultural and charitable societies, Government Bodies, individuals and other private and public sector entities for promotion of social and cultural objectives and not for any trading, commercial or business consideration. It may be noted that all the objectives of trust are subservient to its main object of promotion of music and music artists in India. Raising the artists taste of the country by public performances, dramatic, musical, etc., would be an educational purposes. The nature of receipts clearly shows that the activities of the assessee trust were wholly and exclusively focused on pursuing its main objects of promoting music in the masses. Further, it was submitted that the AO is factually wrong in alleging that the books of account with supporting bills and vouchers

were not produced for verification. The written submissions filed on 01.02.2013 and again on 20.02.2013 duly record that in response to the specific requirement of the A.O, the books of account and vouchers were produced for verification. Therefore there is no basis for arbitrary disallowance of adhoc 30% of expenditure stated under the head 'Operating and Administrative Expenses' amounting to Rs. 5,20,086/-. These expenses were spent by way of application of income for the purpose of carrying on the charitable activity and such application of income is fully admissible u/s 11.

4. He invited our attention to various letters of the person from whom the assessee has received the sponsorship and the money for the same was spent for the main objects of the society. I have perused the said sponsor letters and the main objects of the society and find that the assessee has received the money only for the purpose to achieve the main objects for which the society is registered. The reliance is placed on the decision of ITAT Chennai Bench in the case of HAMS Adhvani vs. DIT reported in 2012 19taxman.com 10 (Chennai) and the relevant part of the decision is reproduced herein below:-

“No doubt, it has been specifically provided in the first proviso that advancement of any other object of general public utility shall not be a charitable purpose if it involves any activity in the nature of trade, commerce or business, or rendering any service in connection with trade, for a cess or fee or any other consideration. The third proviso excludes from the restraints imposed by first proviso, where such receipts were less than Rs. 10 lakhs. The question here is whether sponsorship fee, which forms substantial part of the amounts listed above, can be considered as receipt from activity in the nature of trade, commerce and business. In our opinion, advancement of traditional musical culture of Tamil Nadu and conducting music programmes for that purpose, where such music and dance programmes were sponsored by various persons and sponsorship fee so received, distributed among the artists, can never be considered as an activity in the nature of trade, commerce or business. When a person sponsors a music programme and sponsorship fee is paid to artist concerned, we cannot say that sponsorship fee is a receipt in the hands of the assessee which is in the nature of trade, commerce or business. Similarly, conducting music coaching for the purpose of advancement of various traditional music forms of State of Tamil Nadu, which is an integral part of cultural life of people of Tamil Nadu, cannot also be considered to be an activity in the nature of trade, commerce and business. This can at the best be considered as an educational pursuit. When there are colleges run for coaching music, we cannot say that training imparted in music is not education. In our opinion, the Id. DIT(E) took a very narrow view in this regard and came to a conclusion that the sponsorship fee and music coaching fee received by the assessee were from the activity in the nature of trade, commerce or business. Assessee, in our opinion, was not carrying on any activity in the nature of trade, commerce or business but was carrying on its avowed object of advancement

of fine arts and traditional art forms, which cannot be considered as a commercial or business activity. The nature of receipts of the assessee, in our opinion, will not come within the purview of first proviso to Section 2(15) of the Act except for sale of tickets and the receipts from sale of tickets were well below a sum of Rs. 10 lakhr. We also note that the assessee has been registered under Section 12AA of the Act and such registration is still m'vogue. In our opinion, assessee was eligible for renewal of approval under Section 80G of the Act without doubt. Order of DIJEE) is quashed and he is directed to grant the assessee renewal of approval under Section 80G of the Act.”

5. In the circumstances and facts of the case the order of the ld. CIT (A) and that of the Assessing Officer is directed to be quashed and all grounds of the assessee are allowed.
6. In the result, the appeal of the assessee is allowed.
7. Pronounced in the open court on 10.03.2017.

Sd/-
(B.P. JAIN)
ACCOUNTANT MEMBER

Dated: 10 .03.2017

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Copy forwarded to:

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

ASSISTANT REGISTRAR

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