

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F': NEW DELHI

BEFORE SHRI S.V. MEHROTRA, ACCOUNTANT MEMBER, AND
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No. 4964/Del /2013
Assessment Year: 2006-07

Rajeev Educational Trust
C - 357, Lobia Nagar
Ghaziabad

Vs.

The Addl. CIT
Range-II
Ghaziabad

PAN : AAATR 3091 N

[Appellant]

[Respondent]

Date of Hearing : 05.05.2016
Date of Pronouncement : 06.05.2016

Appellant by : Shri Vinod Kumar Goel, Adv
Respondent by : Ms. Kesang Y. Sherpa, Sr. DR

ORDER

PER CHANDRA MOHAN GARG, JUDICIAL MEMBER

This appeal filed by the assessee is directed against the order of the CIT(A)-Ghaziabad, dated 13/06/2013 for A.Y 2006-07.

2. The assessee has raised as many as five grounds of appeal. However, at the very outset of the hearing of the arguments, the ld. AR submitted that the AO was not justified in coming to a haste and arbitrary conclusion without appreciating the facts and circumstances

of the case and without making any efforts to enquire through the ITI to ascertain the evidence placed on record. The ld. AR also submitted that the bald conclusion against the assessee without any objective reasoning is against the principles of natural justice.

3. Per contra, the ld. DR supported the order of the ld. CIT(A) and submitted that the ld. CIT(A) was quite justified in upholding the order of the AO.

4. We have heard the arguments of both the sides and carefully perused the relevant material placed on record before us. We find from the orders of the authorities below that the issues under consideration have not been decided by the AO in a proper manner and facts have not been appreciated in a judicious manner. We further find that the AO as well as the ld. CIT(A) have passed their respective orders without considering the provisions of section 11(1) of the Income tax Act, 1961 [for short, 'the Act'] wherein corpus donation of which is exempted income and hence provisions of section 68 are not applicable. On the basis of foregoing discussion and careful perusal of the operative part of the ld. CIT(A)'s conclusion, it is amply clear that the ld. CIT(A) has decided the issue in haste by passing a cryptic order which is not sustainable. We further note that the ld. CIT(A) has also not properly considered the submissions and facts of the case and simply followed the AO's conclusion and dismissed the

appeal of the assessee by applying the ratio of various decisions. We further note that the ld. CIT(A) too has not given due opportunity of being heard to the assessee. The decisions in the case of CIT Vs. Durga Nimshamba Trust [2012] 18 Taxmann.com 173 [Kar] and ITO Vs. Sardar Vallabhai Education Spcoety [2012] 26 Taxmann.com 174 [Ahd][TM], relied upon by the ld. AR support the case of the assessee. The ld. DR has supported the order of the ld. CIT(A). However, he raised no serious objection if the appeal is restored to the file of the AO. Therefore, in the interest of justice, we deem it fit to restore the grounds of appeal raised by the assessee to the file of the AO for fresh adjudication. Needless to mention that the AO shall provide due and proper opportunity of being heard to the assessee without being prejudiced with the earlier impugned order. Grounds of appeal raised by the assessee are allowed for statistical purposes.

5. In the result, the appeal of the assessee stands allowed for statistical purposes.

The order is pronounced in the open court on 06.05.2016.

**Sd/-
(S.V. MEHROTRA)
ACCOUNTANT MEMBER**

**Sd/-
(C.M. GARG)
JUDICIAL MEMBER**

Dated: 06th May, 2016

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi