

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'A FRIDAY' NEW DELHI
BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER
AND
SMT SUCHITRA KAMBLE, JUDICIAL MEMBER
I.T.A .No.-6222/Del/2013
(ASSESSMENT YEAR-2009-10)
AND
I.T.A .No.-6240/Del/2013
(ASSESSMENT YEAR-2010-11)**

ADIT(E) Inv. Cir-I New Delhi (APPELLANT)	vs	Amateur Athletics Federation of India Room No. 44, 2 nd Flor, Palika Place, NDMC Bldg. Panchkuian Road New Delhi AAATT4183B (RESPONDENT)
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Appellant by	Sh. K. K. Jaiswal, DR
Respondent by	None

Date of Hearing	08.01.2016
Date of Pronouncement	02.02.2016

ORDER

PER SUCHITRA KAMBLE, JM

These two appeals are filed by the revenue against the orders dated 02/09/2013, passed by the Id. CIT(A)-XXI, New Delhi, relating to A.Y. 2009-10 and A.Y. 2010-11.

2. The grounds of appeal for A.Y. 2009-10 are as follows:-

“1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.50,76,003/- made by the A.O by invoking the provisions of Section 2(15) of the Income Tax Act, 1961.

2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.2,21,555/- on account of disallowance of depreciation.

3. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate the fact that the A.O denied the claim of exemption to the assessee u/s 11 & 12 of the Act.”

The grounds of appeal for A.Y. 2010-11 are as follows:-

“1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.67,36,020/- (97,57,240 – 30,21,220 already shown in the income) made by the A.O by invoking the provisions of Section 2(15) of the Income Tax Act, 1961.

2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs.1,88,394/- on account of disallowance of depreciation.

3. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate the fact that the A.O denied the claim of exemption to the assessee u/s 11 & 12 of the Act.”

3. The assessee is a sports federation promoting athletics in India and the federation is recognized by Ministry of Youth Affairs & Sports. The assessee receives recognition fees for recognizing various sports events in India. The case was taken up for scrutiny and the A.O denied the benefit u/s 11 of the Income Tax Act, 1961 mainly on the ground that the assessee receives reorganization fees

or capitation fees in violation of proviso to Section 2(15) of the Act vide the order of the A.O.

4. The assessee filed appeal against the order of the A.O and submitted that the A.O was not justified to deny the exemption u/s11 of the Act. The Assessee submitted before CIT (A) that the assessee is involved in promoting athletics sports in India and it is a charitable organization. The assessee was not involved in any business activity and it merely receives some amounts as recognition fees which is not a business activity. There is no profit motive in the activities of the assessee and as such there is no proper justification for denying the exemption u/s 11 of the Act. The CIT(A) held that the prime objective of the federation was to promote athletics and sports in India and for this the assessee charges some amount for recognizing the sports events and as such profit making is not the prime object of the assessee. The CIT(A) also taken into consideration the case laws submitted by the assessee and held that the case laws support the case of the assessee to the extent that merely because the assessee receives some recognition fees will not deviate from the fact that the main object of the assessee is the promotion of sports which is apparently for the advancement of general public utility as provided in the sixth limb of Section 2 (15) of the Act which defines charitable purposes. Thus the CIT(A) held that the assessee comes under the category of charitable organization and even the case laws relied on by the assessee supports the case of the assessee. Accordingly the

claim of the assessee for exemption u/s 11 was allowed by the CIT(A).

6. The DR relied upon the order of the Assessing Officer.

7. We have perused all the records and heard the Ld. DR. The CIT(A) was right in holding that the prime object of the federation is to promote Athletics and Sports in India. The main object of the assessee comes under the purview of Section 2 (15) of the Act which defines charitable purpose. The dominant or primary purpose of the assessee is to promote athletics in India which is charitable and the other objects are in the nature of powers conferred upon the assessee for the purpose of securing fulfillment of the dominant or primary purpose. They would no doubt benefit the members of the assessee but this benefit would be incidental in carrying out the main or primary purpose of the assessee. If therefore, the dominant or primary purpose of the assessee was charitable the subsidiary objects would not militate against its charitable character and the purpose of the assessee would not be any the less charitable. Merely because the assessee receives some recognition fees will not deviate the fact that the main object of the assessee is to promote sports which is apparently for the advancement of general public utility as provided in Section 2 (15) of the Act which defines charitable purposes. The words "advancement of any other object of general public utility" would exclude objects of private gain; but this requirement is also stratified in the present case because the object of private profit is eliminated by the assessee under the objects as

per Memorandum of Association of Society which was quoted in Assessment Order. The test to be applied is whether the predominant object of the activity involved in carrying out the object of general public utility is to subserve the charitable purpose or to earn profit. Where the predominant object of the activity is to carry out the charitable purpose and not to earn profit, it would not lose its character of a charitable purpose merely because some profit arises from the activity. The exclusionary clause does not require that the activity must be carried on in such a manner that it does not result in any profit. The restrictive condition that the purpose should not involve the carrying on of any activity for profit would be satisfied if profit making is not the real object. Therefore the assessee is entitled for the deduction under Section 11 of the Act. Hence, the Revenue's case does not sustain.

8. In result, both the appeals are dismissed.

The order is pronounced in the open court on 2nd of February, 2016.

Sd/-

**(J. SUDHAKAR REDDY)
ACCOUNTANT MEMBER**

Dated: 02/02/2016

*R. Naheed **

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI

		Date	
1.	Draft dictated on	.08.01.2016	PS
2.	Draft placed before author	.08.01.2016	PS
3.	Draft proposed & placed before the second member	.2016	JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS	02.01.2016	PS/PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk	03.01.2016	PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		

