

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B" NEW DELHI

BEFORE SHRI S.V. MEHROTRA : ACCOUNTANT MEMBER
AND
MS. SUCHITRA KAMBLE : JUDICIAL MEMBER

ITA no. 6057/Del/2013
U/s 2006-07

Income Tax Officer (E) Vs. Centre for Development of Telematics,
Trust Ward-III, C-DOT Campus, Mehrauli,
New Delhi. New Delhi.
PAN: AAATC 3895 K
(Appellant) (Respondent)

Appellant by : Shri Anil Kumar Saroha Sr. DR
Respondent : Shri Ajay Vohra Sr. Adv. &
Shri Aditya Vohra Adv.

Date of hearing : 14/09/2016.
Date of order : 19/09/2016.

ORDER

PER S.V. MEHROTRA, A.M:

This is department's appeal against the order dated 22.08.2013 passed by the
ld. CIT(Appeals)-XXI, New Delhi in appeal no. 01/2011-12/337 relating to AY
2006-07.

2. At the outset ld. counsel for the assessee pointed out that the department's
appeal has become infructuous and deserves to be dismissed. He pointed out that in
this case assessee had claimed exemption u/s 10(21). However, the AO vide his
order dated 31.12.2008 denied the same observing that since CBDT vide

notification no. 148/2007 dated 12.4.2007 had notified the assessee to be in the category of “other institutions partly engaged in research activities” u/s 35(1)(ii) of the Act, the assessee was not eligible for benefit u/s 10(21).

3. Ld. counsel pointed out that CIT(A) vide his order dated 28.1.2011 upheld the finding of the AO categorizing it under “other institutions partly engaged in research activities” and, therefore, not eligible for benefit u/s 10(21). He pointed out that AO passed consequential order on 17.3.2011 giving effect to the directions contained in CIT(A)’s order dated 28.1.2011. Ld. counsel further submitted that on 19.3.2013 the Hon’ble Delhi High Court passed order setting aside CBDT Notification no. 148/2007 and directed the Central Government to decide the issue whether the assessee was a “scientific research association” or “other institutions partly doing scientific research” within three months from the date of order. He further pointed out that on 13.8.2013 CBDT vide Notification no. 62 of 2013 notified the assessee to be covered in the category of “scientific research association” with retrospective effect from 1.4.2002 onwards for the purpose of section 35(1)(ii) of the Act.

4. Ld. counsel pointed out that the ITAT vide its order dated 27.6.2014 in appeal against CIT(A)’s order dated 28.1.2011 set aside the order of CIT(A) and AO and restored the issue afresh to the AO with direction to pass a speaking order in accordance with law after noting as under:

- Impugned assessment order (L" round) was passed in reference to CBDT Notification No. 148/2007 dated 12.04.2007
- Aforesaid Notification was subsequently set aside by the Hon'ble High Court of Delhi vide judgment rendered on 19.03.2013
- CBDT issued fresh Notification No.62 of 2013 dated 13.08.2013 notifying the assessee to be covered in the category of "scientific research association", with retrospective effect from 0 1.04.2002 onwards, for the purpose of section 35(1)(ii) of the Act
- Exemption under section 10(21) has been granted to the assessee by the assessing officer itself in assessment order passed for assessment year 2011-12.

5. Ld. counsel pointed out that in the backdrop of these proceedings, the ld. CIT(A)'s order dated 22.8.2013 allowing assessee's appeal against appeal effect order dated 17.3.2011 passed by the AO u/s 143(3) read with section 250 of the Act on the ground that CBDT vide notification no. 62 of 2013 dated 13.8.2013 notified the assessee as a scientific research association and the assessee was, therefore, entitled to the claim of exemption u/s 10(21) of the Act, does not survive in view of the Tribunal's order. He, therefore, submitted that the present appeal filed by revenue, in any view of the matter, has become infructuous.

6. Ld. DR did not dispute all the facts mentioned by ld. counsel for the assessee.

7. We have considered the submissions of both the parties and find that the denial for exemption u/s 10(21) was made because CBDT had notified vide Notification no. 148 of 2007 dated 12.4.2007 to the assessee as in the category of “other institutions partly engaged in research activities”. However, after the decision of Hon’ble High Court vide notification no. 62 of 2013 dated 13.8.2013 issued by CBDT, the assessee has been categorized as “Scientific research Association” with retrospective effect from 1.4.2002. Further, we note that vide order dated 27.6.2014 Tribunal has set aside Id. CIT(A)’s order in first round of proceedings and, therefore, the present impugned order of Id. CIT(A) in second round of proceedings does not survive and, therefore, the department’s appeal is dismissed as infructuous.

8. In the result, revenue’s appeal is dismissed.

Order pronouncement in open court on 19/09/2016.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER
Dated: 19/09/2016.

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

MP

Copy of order to:

1. Assessee
2. AO
3. CIT
4. CIT(A)
5. DR, ITAT, New Delhi.