

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री कुल भारत, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI KUL BHARAT, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 831/JP/2016
निर्धारण वर्ष/Assessment Year :2012-2013

Mahima Shiksha Samiti A-18, Shanti Path, Tilak Nagar, Jaipur	बनाम Vs.	The ACIT (Exemption), Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAATM1883H		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

आयकर अपील सं./ITA No. 968/JP/2016
निर्धारण वर्ष/Assessment Year :2012-2013

The ACIT(E), Circle, Jaipur	बनाम Vs.	Mahima Shiksha Samiti A-18, Shanti Path, Tilak Nagar, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAATM1883H		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

आयकर अपील सं./ITA No. 832/JP/2016
निर्धारण वर्ष/Assessment Year :2013-2014

Mahima Shiksha Samiti A-18, Shanti Path, Tilak Nagar, Jaipur	बनाम Vs.	The ACIT (Exemption), Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAATM1883H		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

आयकर अपील सं./ITA No. 969/JP/2016
निर्धारण वर्ष/Assessment Year :2013-2014

The ACIT (Exemption), Jaipur	बनाम Vs.	Mahima Shiksha Samiti A-18, Shanti Path, Tilak Nagar, Jaipur
स्थायी लेखा सं./ जीआईआर सं./ PAN/GIR No.: AAATM1883H		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Vinod Kumar Gupta (C.A.)
राजस्व की ओर से / Revenue by : Shri R.S. Verma (Addl. CIT)

सुनवाई की तारीख / Date of Hearing : 18/04/2017
उदघोषणा की तारीख / Date of Pronouncement: 25/04/2017

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

These are cross appeals filed by the Revenue and the assessee against the order of Ld. CIT (A), Jaipur dated 22.08.2016 and 26.08.2016 for A.Y. 2012-13 and 2013-14 respectively. Since common issues are involved, both the appeals were heard together and disposed off by this consolidated order.

Grounds of Revenue's appeal:-

In its appeal for A.Y. 2012-13, the Revenue has taken the following grounds of appeal:-

"On the facts and in the circumstances of the case and in law, the Id CIT(A) has erred in:

1. *Allowing assessee's claim of exemption u/s 11 even though provisions of Section 13 are attracted.*
2. *Allowing the benefit of section 11(1) of the IT Act without considering the huge surpluses being earned by the society and*

expenses were incurred for the benefit of persons covered u/s 13(3) of the IT Act.

3. Allowing salary expenses to the extent of the following amounts:- Rs. 13,76,020/- (Mr. Mohini Bakshi), Rs. 2,84,020/- (Mr. M.S. Bakshi), Rs. 10,58,020/- (Mrs. Sandeep Bakshi) Rs. 89,696/- (Mrs. Indu Tikkoo) and Rs. 26,020/- (Mr. Preeti Bakshi) which is higher than reasonable.

4. Allowing contribution made to Jaipur Nation University during the year under considering as application of income u/s 11 of the Act despite the fact that the assistance provided to JNU is the violation of byelaws of the society as well as the violation of provisions of Sections 13(1)(c) and 13(2)(a) of the Income Tax Act, 1961."

Ground of Assessee's appeal:-

In its appeal for A.Y. 2012-13, the assessee has taken the following solitary ground of appeal is as under:-

"(i) Under the facts and circumstances of the case and in law, Ld. A.O. has erred in holding that depreciation under section 32 of the Income Tax Act, 1961 is not admissible in respect of the assets on which exemption has been allowed under section 11 of the Income Tax Act, 1961 while applying the income for charitable purpose. Further, Ld. CIT (A) erred by upholding the same."

2. Similar grounds of appeal have been taken by the Revenue and assessee in their respective appeals for A.Y. 2013-14.

3. At the outset, the Ld. AR submitted that all grounds of appeal as taken by the Revenue as well as by the assessee have been decided in

favour of the assessee by this very Bench vide its order dated 03.03.2017 for AY 2010-11 and AY 2011-12. It was further submitted that there are no changes in the facts and circumstances of the case as well as in the legal position, hence, it was prayed that the earlier decision taken by this Bench vide its order dated 03.03.2017 may kindly be followed in respect of appeals filed by the Revenue as well as the assessee for both the assessment years under consideration.

3. The Ld. DR is heard who has relied on the order of the Assessing Officer in respect of grounds of appeal taken by the Revenue and relied on the order of Ld. CIT.(A) in respect of ground of appeal taken by the Revenue. The LD DR fairly agreed that the issues under consideration are covered by the earlier decision passed by this Bench vide its order dated 03.03.2017.

5. This Bench has recently examined all this issues which have been raised in the impugned appeals at length in ITA No. 105/JP/2016 and others in assessee's own case for AY 2010-11 and AY 2011-12 and vide our consolidated order dated 03.03.2017 have decided the issues in favour of the assessee society and at para 103 held as under:

"In light of above discussion and in the entirety of facts and circumstances of the case, taking into consideration the rival contentions advanced by both the parties, Hon'ble Supreme Court decision in the case of Queens's educational society and others, various other High Courts decisions referred supra as well as orders passed by Coordinate Benches in earlier years, the assessee society is held eligible for exemption under section 11 read with section 12 and 13 of the Act. The payment of salary to persons specified in section 13(3), incurrence of foreign travel expenditure, contribution to Jaipur National University and

additions to fixed assets during the year qualify for due application of income in accordance with the above said provisions. In the result, all the grounds taken by the Revenue are dismissed and ground taken by the assessee society is allowed."

6. Admittedly, there are no changes in the facts and circumstances of the case as well as in the legal position in respect of the issues under consideration. The Ld. CIT(A) has also decided all these matters following the earlier orders passed by the Co-ordinate Benches as well as by her for A.Y. 2010-11 and 2011-12. Hence, our findings and directions contained in our earlier order dated 03.03.2017 shall apply mutatis mutandis in respect of all the issues under consideration in respect of both the impugned assessment years.

In the result, appeals filed by the Revenue are dismissed and appeals filed by the assessee are allowed in respect of both the impugned assessment years.

Order pronounced in the open court on 25/04/2017

Sd/-
(कुल भारत)
(Kul Bharat)
न्यायिक सदस्य / Judicial Member

Sd/-
(विक्रम सिंह यादव)
(Vikram Singh Yadav)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 25/04/2017.

*Santosh.

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- M/s Mahima shiksha Samiti A-18, Shanti Path, Tilak, Nagar, Jaipur.

2. प्रत्यर्थी / The Respondent- ACIT (E), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. /831,968,832&969JP/2016}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar