

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

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI K. N. CHARY, JUDICIAL MEMBER
(THROUGH VIDEO CONFERENCING)

ITA No.6778 & 6779 /DEL/2017
[A.Y 2013-14 & 2014-15]

ACIT
Circle-2(1)
New Delhi

Petrotech
Vs. 601/603, Tolstoy House
Tolstoy Marg
New Delhi-110001

Appellant by : Sh. Akhilesh Gupta, Sr DR
Respondent by : Sh. V.K Sabharwal, Advocate
Sh. Rajan Gupta, CA

Date of Hearing : 05.10.2020
Date of Pronouncement : 05.10.2020

ORDER

PER N. K. BILLAIYA, AM:

1. 6778/Del/2017 and 6779/Del/2017 are two separate appeals by the revenue preferred against two separate orders dated 22.08.2017 of the

CIT(A)-40, New Delhi pertaining to A.Y. 2013-14 and 2014-15 respectively.

2. Both the appeals have common grounds, therefore, they are taken up together and are being disposed off by this common order for the sake of convenience and brevity.

3. The common grievance read as under :-

(In ITA No.6778/Del/2017)

1. *On the facts and circumstances of the case and in law, Ld. CIT(A) has erred in law in holding that the activities of the assessee are charitable in nature and that assessee is eligible for exemption u/s. 11 of the Act by ignoring the fact that activities of the assessee is to organize meetings, seminars, workshops, conferences, brainstorming exhibitions in India and abroad and keep up with the latest developments in the field of oil, lubricants and fuel gas world over and charging fees from delegates. The assessee's activities falls under last limb of section 2(15) and hit by the proviso to section 2(15).*

2. *On the basis of facts and circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring the fact that the activities of the assessee is to organize meetings, seminars, workshops, conferences, brainstorming exhibitions in India and abroad and keep up with the latest developments in the field of oil, lubricants and fuel gas world over and charging fees from delegates in a commercial manner with a view to earn profit and charging fee from them which is liable to be taxed under the head " Profit & Gains of Business and Profession" and as such, its activities are not in charitable nature.*

3. *The appellant craves leave to add, to alter or amend any ground of appeal raised above at the time of hearing.*

(In ITA No.6779/Del/2017)

1. *On the facts and circumstances of the case and in law, Ld. CIT(A) has erred in law in holding that the activities of the assessee are charitable in nature and that assessee is eligible for exemption u/s. 11 of the Act by ignoring the fact that activities of the assessee is to organize meetings, seminars, workshops, conferences, brainstorming exhibitions in India and abroad and keep up with the*

latest developments in the field of oil, lubricants and fuel gas world over and charging fees from delegates. The assessee's activities falls under last limb of section 2(15) and hit by the proviso to section 2(15).

2. *On the basis of facts and circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring the fact that the activities of the assessee is to organize meetings, seminars, workshops, conferences, brainstorming exhibitions in India and abroad and keep up with the latest developments in the field of oil, lubricants and fuel gas world over and charging fees from delegates in a commercial manner with a view to earn profit and charging fee from them which is liable to be taxed under the head " Profit & Gains of Business and Profession" and as such, its activities are not in charitable nature.*

3. *The appellant craves leave to add, to alter or amend any ground of appeal raised above at the time of hearing.*

4. At the very outset it has been brought to our notice that the issues raised in the aforementioned grounds of appeal have been decided in favour of the assessee and against the revenue since A.Y. 2009-10 to 2012-13.

5. We have carefully perused the orders of the authorities below. The undisputed fact is that the very issues were there in A.Y. 2009-10 to A.Y.2012-13. We further find that CIT(A) while deciding the appeal in favour of the assessee has followed the earlier years orders. The findings of the CIT(A) read as under :-

"4.1.2 I have considered the order of the Assessing Officer, submissions of the appellant and the orders of CIT(A)-XXI/36 for assessment years 2009-10 (Appeal No. 420/2011-12) and 2010-11 and 2011-12 (Appeal Nos. 147 and 34/2015-16). I've also considered my own orders in the case of the appellant for assessment year 2012 - 13 (Appeal No. 140/2015 - 16). The Id. CIT(A)-36 in her order for assessment years 2010-11 and 2011-12 has held as under:

"6. I have considered the order of the AO, submissions of the asses see and the order of CIT (A) for AY 2009-10. My predecessor has in his order dated 15.10.2012 for AY 2009-10 found as under:

"That on going through the facts of this case and from the examination of the records produced which were also submitted and available with the AO in the course of assessment proceedings, it is found that the activities of the society were not in the nature of advancement of any other object of general public utility, and not involved in carrying on any activity in the nature of trade commerce or business, as this society is wholly engaged in the academic field and providing education being a non-profit, non-commercial organization as of providing a platform in the field of petroleum technology and related areas viz. Exploration, drilling, production, refining, petro-chemical, research and development and health, safety and environment. The said society organizes international and national seminars/ conferences on the said topic pertaining to Hydro Carbon Industry for the Oil Industry and academia on no profit no losses basis and is covered under the provision of law contained u/s. 2(15) of the Income Tax Act, 1961, because of providing education in the field of Oil Industry in order to explore areas of growth in the field of Petroleum Technology and related areas viz. Exploration, drilling, production, refining, petro-chemical, research and development and health, safety and environment, to provide them latest techniques and technology by way of organizing national and International and national seminars / conferences and when needed, therefore, is having the character of charitable activities only, and as such covered under the 2nd limb of section 2(15) of the Act, which is education though it has been mentioned as 1st limb in submissions of appellant but it makes no difference as it has been emphasized by the Circular dated 19.12.2008 that amendment in section 2(15) does not apply to first three limbs, which are; (i) relief of the poor (ii) education and (iii) medical relief. It applies only to the last limb which is advancement of any other object of general public utility.

4.1 As such, activity of the appellant has been found in the nature of education, the exemption u/s. 11 and 12 of the IT Act cannot be disallowed. The same is therefore, allowed and additions made in this regard are hereby deleted. The AO is directed to grant relief accordingly, Grounds no. 1 to 8 of the appeal are allowed".

7. It is seen that the facts & circumstances and the nature of disallowances and its reasoning is exactly the same for both these years i.e. AY 2010-11 & 2011-12

as they were for AY 2009-10. The matter as submitted by the assessee & as mentioned by the AO in his order, is already in the IT AT. Therefore, respectfully following the order of my predecessor, I find that the activities of the assessee are in the nature of education and therefore Proviso to Sec. 2(15) shall not apply to it. The exemption u/s. 11 is therefore allowable..."

4.1.3 The Hon'ble IT AT Delhi Bench "F" in ITA No. 6259/Del/2012 in appellant's own for assessment year 2009 - 10 vide order dated 11/ 04/2017 have held as under:

"7. We have carefully perused the memorandum of Association and bylaws of the society, which are placed before us, and page No. 30 of the paper book. According to that, the assessee is required to provide a forum for national and international experts in oil and gas industry exchange view and share their knowledge expert eyes and experience. Further, it is also formed to identify new areas for cooperation and technology transfer relating to petroleum industry and to find out new ways to assimilate and harness the petroleum resources of the world for the benefit of mankind. Therefore on looking at the clause No. 3 of the memorandum of Association of the assessee it is apparent that assessee is formed to carry on the educational activities in the field of oil and gas industry. The annual accounts-placed before us at page No. 22 on 23 of the paper book shows that the assessee has excess of income of Rs. 8351077 for the year ended on 31st of March 2009 and 5188749/- for March 2008. On a query being raised by the bench that whether the assessee is still enjoying the registration under section 12 A of the income tax act or not, it was replied by both the parties that still assessee is registered under section 12 A of the income tax act. Merely because the assessee is holding conferences and seminars which are according to us in furtherance of the object of education only against payment of fees will not make the object of the trust falling into the 6th category i.e. ' Any other object of general public utility'. Further more it is not the case of the revenue that assessee is not carrying on the objective for which it has been formed and the fees and the income earned by the assessee is not used for charitable purposes. The Ld. departmental representative could not controvert the decisions relied upon by the Ld. AR. The revenue also could not place before us any evidence to show that the objects of the assessee are not 'education. In view of this we do not find any infirmity in the order of the Ld. CIT (A) in holding that assessee is entitled for deduction or exemption under section 11 and 12 of the income tax act as assessee is carrying on the activity of education only and income generated there from is also used for the charitable objects of education only"

4.1.4 *The facts and circumstances of the case are same as for the earlier years, i.e., assessment years 2009-10, 2010-11, 2011-12 and 2012 - 13. Further, as has also been mentioned by the Assessing officer in his assessment order, there is no change in the activities of the assessee from the assessment year 2012 - 13. Therefore, respectfully following the orders of the Hon'ble ITAT in IT A No. 6259/10/2012 and those of my predecessors, CIT(A)-XXI and CIT(A)-36 and my own orders for assessment year 2012 - 13, it is held that the activities of the appellant are in the nature of education and, therefore, proviso to section 2(15) is not applicable. The Assessing Officer is directed to allow exemption under section 11 with all consequential benefits. Grounds of appeal Nos. 1 to 10 are allowed."*

6. We further find that the revenue approached the Hon'ble High Court of Delhi in A.Y.2009-10 and the Hon'ble High Court declined to interfere with the findings of the Tribunal holding that no substantial question of law arises. The relevant findings of the Hon'ble High Court read as under :-

2. The assessee is a trust registered under Section 12A of the Act by an order dated 02.08.2000. It also secured registration under Section 80G of the Act for AY 2009-10. The Assessing Officer (AO) after noticing its objects felt that whilst the principal activity was imparting education, nevertheless, the nature of the receipts received by it was of commercial consideration. He, therefore, brought to tax the amount received. The assessee appealed to the Appellate Commissioner to accept its plea after noticing several decisions including that of this Court in *DIT vs. India Habitat Centre: (2011)*

203 Taxman 510. The ITAT's decision has relied on several judgments of this Court including *India Trade Promotion Organisation vs. Director General of Income Tax*: 371 ITR 333; *PHD Chambers of Commerce & Industry vs. DIT*: 357 ITR 296, etc.

3. Having regard to the concurrent findings of fact and ruling in *Indian Trade Promotion Organisation vs. Director General of Income Tax*: 371 ITR 333, this Court is of the opinion that there is no infirmity or error of law in the impugned order calling for interference. No substantial question of law arises.

7. Respectfully following the findings of the Co-ordinate Bench read with the decision of Hon'ble High Court (supra), we decline to interfere with the findings of the CIT(A).

8. In the result, both the appeals filed by the revenue are accordingly dismissed.

Order pronounced in the open court on 05.10.2020.

Sd/-
[K. NARSIMHA CHARY]
JUDICIAL MEMBER

Sd/-
[N. K. BILLAIYA]
ACCOUNTANT MEMBER

Dated:05.10.2020

Neha

Copy forwarded to:

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

Asst. Registrar

Date of dictation	05.10.2020
Date on which the typed draft is placed before the dictating Member	05.10.2020
Date on which the typed draft is placed before the Other member	05.10.2020
Date on which the approved draft comes to the Sr.PS/PS	05.10.2020
Date on which the fair order is placed before the Dictating Member for Pronouncement	05.10.2020
Date on which the fair order comes back to the Sr. PS/ PS	05.10.2020
Date on which the final order is uploaded on the website of ITAT	05.10.2020
Date on which the file goes to the Bench Clerk	05.10.2020
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	