

आयकर अपीलिय अधीकरण, न्यायपीठ – “ A ”, कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH- “A” CALCUTTA
(समक्ष)Before श्री प्रमोद कुमार, लेखा सदस्य एवं/and

Shri Pramod Kumar, Accountant Member

श्री जॉर्ज मथान, न्यायीक सदस्य

Shri George Mathan, Judicial Member

आयकर अपील संख्या / ITA No. 1160/Kol/2011

निर्धारण वर्ष/Assessment Year: 2008-09

A.C.I.T,CC-XXIII, Kolkata	- वनाम-	M/s. Guru Nanak Educational Trust PAN:AAATG 6799C
(अपीलार्थी/APPELLANT)	-Versus-	(प्रत्यर्थी/RESPONDENT)

अपीलार्थी के लिए /For the Appellant श्री/Shri S.P. Lahiri, Id.DR

प्रत्यर्थी के लिए/For the Respondent: श्री/Shri S.L. Kochar, Advocate, Id.AR

सुनवाई की तारीख/Date of Hearing : 16-05-2012

घोषणा की तारीख/Date of Pronouncement:16-05-2012

आदेश/ORDER

श्री जॉर्ज मथान, न्यायीक सदस्य

This is an appeal filed by the revenue against order of the learned Commissioner of Income-tax (Appeals), Central-III, Kolkata in appeal no. 170/CC-XXIII/CIT(A)-III/10-11 dated 21-06-2011 for the assessment year 2008-09.

2. Shri S.P. Lahiri, learned DR represented on behalf of the revenue and Shri S.L. Kochar, Advocate, learned AR represented on behalf of the assessee.

3. In this revenue's appeal, the revenue has raised following ground of appeal :-

“1 In the facts and circumstances of the case and in law the learned CIT(A) has erred in directing the AO to grant exemption u/s. 11 of the I.T Act to the assessee trust when the order dt. 31.12.2008 u/s. 12AA(3) of the Act has been appealed before the Hon'ble High Court u/s. 260A of the Act and is not conclusive at this point of time.

2. In the facts and circumstances of the case and in law the learned CIT(A) has erred in directing the AO to grant exemption u/s. 11 of the IT Act to the assessee when the status of the assessee that was held as “AOP” for the reasons as discussed in the assessment order was not challenged by the assessee.

3. *That the Department craves leave to add, modify or alter any of the ground(s) of appeal and/ or adduce additional evidence at the time of hearing of the case.*

4. At the time of hearing it was fairly agreed by both the sides that the issue is squarely covered in favour of the assessee by the decision of the co-ordinate bench of this tribunal in assessee's own case in ITA Nos.2210 & 2211/Kol/2008 dated 27-05-2011 for the assessment years 2004-05 and 2007-08.

5. We have considered the rival submissions. We have also perused the said order dated 27-05-2011 of the co-ordinate bench of this tribunal in assessee's own case for the assessment years 2004-05 & 2007-08 (refer to supra). As it is noticed that the co-ordinate bench of this tribunal in assessee's own case (refer to supra) in para 4 & 5 of the said order dated 27-05-11 has taken into consideration the decision of the Hon'ble Madhya Pradesh High Court in the case of CIT –vs- Darshan Talkies [217 ITR 744] as also the decision of the co-ordinate bench of this tribunal in assessee's own case for the assessment year 2006-07 in ITA No. 1689/Kol/2009 dated 26-11-2009 and the tribunal has dismissed the revenue's appeals [in ITA Nos.2210 & 2211/Kol/2010] upholding the finding of the Id.CIT(A) in directing the Assessing Officer to grant exemption u/s. 11 of the I.T Act, respectfully following the said order/decision dated 27/05/2011 of the co-ordinate bench of this tribunal in assessee's own case for the assessment years 2004-05 & 2007-08 (refer to supra) and as also as no contrary view has been taken by any superior authority and no contrary evidence has been placed before us by the revenue, the findings of the learned Commissioner of Income-tax (Appeals) stand confirmed. The issues of revenue's appeal are dismissed.

6. In the result, the appeal of the revenue stands dismissed.

यह आदेश खुले न्यायालय में सुनाया गया है

THIS ORDER IS PRONOUNCED IN OPEN COURT AS DICTATED ON Dt 16-05-2012

Sd/-

(प्रमोद कुमार, लेखा सदस्य)

(Pramod Kumar, Accountant Member)

(तारीख)Date 16-05-2012

Sd/-

(जॉर्ज मथान, न्यायीक सदस्य)

(George Mathan, Judicial Member)

*PP/SPSआदेश की प्रतिलिपि अग्रेषित:/ Copy of the order forwarded to:

- 1.. अपीलार्थी / The Appellant : A.C.I.T, CC-XXIII, 5th Fl., 18 Rabindra Sarani, Kol-1.
- 2 प्रत्यर्थी / The Respondent- M/s.Guru Nanak Educational Trust 20 B.T Road, Kol-2.
- 3 आयकर कमिशनर/The CIT,
- 4.. आयकर कमिशनर (अपील)/The CIT(A)
5. वभागिय प्रतिनीधी / DR, Kolkata Bench
6. Guard file.

सत्यापित प्रति/True Copy, आदेशानुसार/ By order,

सहायक पंजीकार/Asstt Registrar