

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C', NEW DELHI**

Before Sh. Kul Bharat, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

(Through Video Conferencing)

ITA No. 1690/Del/2018 : Asstt. Year : 2013-14

ITA No. 1691/Del/2018 : Asstt. Year : 2014-15

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| ACIT(E), Circle-1(1), New Delhi-110002 | Vs | Indian Evangelical Team, 126, Andheri More, Mehrauli, New Delhi-110074 |
| (APPELLANT) | | (RESPONDENT) |
| PAN No. AAATI0283M | | |

Assessee by : Sh. George Kashi, CA

Revenue by : Ms. Vanita R. Sharma, CIT DR

Date of Hearing: 18.03.2021

Date of Pronouncement: 24.03.2021

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeals have been filed by the revenue against the orders of the Id. CIT(A)-40, New Delhi dated 14.12.2017.

2. Since, the issues involved in both the appeals are common, they were heard together.

3. The assessee had been allowed exemption u/s 11 of the Income Tax Act, 1961 from the very beginning and the same was allowed for the assessment years 1989-90 to 1991-92, 1995-96 to 2004-05 and 2006-07. Exemption u/s 11 was denied for the first time in the assessment year 1992-93 mainly on the ground that the society was not a religious society and there

was a violation of section 13(1)(b). The assessee was in appeal against the order of the Assessing Officer and it was submitted that the assessee is a religious society and the mischief of the provision of section 13(1)(b) was not attracted. The Id. CIT(A)-XVI, New Delhi in appeal No.28/1995-96 allowed the appeal of the assessee mainly on the ground that the assessee has been allowed exemption for all the preceding years and there was no material change in the activities of the assessee and the mischief of the provision of section 13(1)(b) was not attracted as the assessee was a religious society. The Id. CIT (A) also relied on the case of CIT vs. Barkate Saifiyah Society (1995) 213 ITR 492 (Guj.) vide order dated 02.08.1995. The department filed an appeal against the order of the Ld. CIT(A) but the Tribunal dismissed the departmental appeal vide appellate order in ITA No.6323/Del/1995 dated 09.04.2001.

4. The Assessing Officer has followed his earlier orders and in the year under consideration, exemption has been denied to the assessee mainly on the ground that the assessee is a charitable society and there was a violation of Section 13(1)(b) and the AO has relied on the case laws of State of Kerala Vs. M.P. Shanti Verma Jain, 231 ITR 787 (SC) 1998 and Ghulam Mohidin Trust Vs CIT 248 ITR 587 (J&K) 2001.

5. The Id. CIT (A) owing to the orders for assessment years 2007-08 (Appeal No. 37/2009-10), assessment year 2008-09 (Appeal No. 88/2010-11), assessment year 2009-10 (Appeal No. 196/2011-12), assessment year 2010-11 (Appeal No. 299/2013-14) and assessment year 2011-12 (Appeal No. 570/2013-14), assessment year 2012-13 (Appeal No. 6/2015-16) and to the

orders of the ITAT for assessment years 2007-08 (ITA No. 4937/Del/2010), assessment year 2008-09 (ITA No. 4671/Del/2011), assessment year 2009-10 (ITA No. 3635/Del/2012) and assessment year 2010-11 (ITA No. 2153/Del/2014) allowed the appeal of the assessee.

6. We have perused the order of the ITAT Delhi for assessment year 2010- 11 has held as under:

"3. We have heard the arguments of both the sides and have perused the material placed before us. We find the issue to be covered in favour of the assessee by the decision of ITAT in assessee's own case for assessment year 2009-10 vide ITA No.3635/Del/2012 dated 11th September, 2012. In the said order, the ITAT, considering various decisions of the ITAT in earlier years, has decided the appeal in favour of the assessee. The relevant finding of the ITAT reads as under:-

"5. We have heard both the parties and gone through the facts of the case. We find that the AO himself accepted the claim of the assessee for exemption u/s 11 of the Act in the AYs 1989-90 to 1991-92, 1995-96 to 2004-05 & 2006-07 in identical circumstances. In the AY 1992-93, though a similar claim for exemption was disallowed, the Id. CIT(A) allowed the claim and the ITAT upheld the findings of the Id. CIT(A). On further appeal, the question of law formulated by Hon'ble High Court is stated to be pending in ITA No.6/2002. In the AY 1993-94, AO rejected the claim and appeal is stated to be pending in ITANo.216/2002. For the AY 1994-95, the ITAT upheld the findings of the Id. CIT(A) allowing the claim for exemption u/s 11 of the Act and the appeal filed before the Hon'ble High Court

is stated to be pending admission, hi AY 2005-06, the AO again denied exemption for violation u/s 13(l)(b) of the Act. However, on appeal, the Id. CIT(A) allowed the claim and the ITAT upheld the findings of the Id. CIT(A) vide their order dated 18th June, 2009 in ITA No.45/Del/09. In the AYs 2007-08 & 2008-09, though the AO denied exemption u/s 11 of the Act, the Id. CIT(A) allowed the claim of the assessee in the AY 2007-08 and the fate in further appeal is not known while in the AY 2008-09, the ITAT vide their order dated 26th December, 2011 in ITA No.4671/Del/2011 upheld the findings of the Id. CIT(A), granting exemption u/s 11 of the Act. The Id. CIT(A) in the impugned order followed this order of the ITAT for the AY 2008-09 in allowing exemption u/s 11 of the Act. In view of the foregoing, especially when the Revenue have not placed any material before us, controverting the aforesaid findings of the Id. CIT(A) nor brought to our notice any contrary decision, so as to enable us to take a different view in the matter while claim of the assessee for exemption has consistently been allowed in the preceding 3 ITA-2153/Del/2014 years, we are not inclined to interfere. Consequently, ground no.1 in the appeal is dismissed."

4. Admittedly, the facts of the year under consideration are identical. Learned DR stated that in the earlier year, the Revenue is in appeal before Hon'ble Jurisdictional High Court and, therefore, the matter may be kept pending till the decision of Hon'ble Jurisdictional High Court. In our opinion, merely because the earlier year's appeals are pending before the High Court would be no ground for keeping the appeals pending. We, therefore, respectfully following the decision of ITAT in

assessee's own case for assessment year 2009-10, uphold the order of learned CIT(A) and dismiss the Revenue's appeal."

7. As has been held in the above orders, the provisions of section 13(1)(b) are attracted in case of charitable societies only and not in case of religious societies and hence there is no violation of section 13(1)(b) as alleged by the Assessing Officer, since this assessee is religious society. Keeping in view of the facts and circumstances of the case and respectfully following the orders of the ITAT in assessee's own case, we decline to interfere with the reasoned order of the Id. CIT (A).

8. As a result, both the appeals of the revenue are dismissed. Order Pronounced in the Open Court on 24/03/2021.

Sd/-

(Kul Bharat)
Judicial Member

Dated: 24/03/2021

Subodh

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR