

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B': NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.1114/Del/2024  
(ASSESSMENT YEAR 2016-17)

ITA No.1115/Del/2024  
(ASSESSMENT YEAR 2017-18)

|                                     |     |  |
|-------------------------------------|-----|--|
| ACIT,<br>Circle-1(1),<br>New Delhi. | Vs. | Delhi Bureau of Text Books<br>25/2 Institutional Area,<br>Pankha Road,<br>D Block, Janak Puri,<br>Delhi-110058<br>PAN-AAATD4122G |
| <b>(Appellant)</b>                  |     | <b>(Respondent)</b>  |

|                       |                         |
|-----------------------|-------------------------|
| Assessee by           | None                    |
| Department by         | Ms. Suman Malik, CIT-DR |
| Date of Hearing       | 02/06/2025              |
| Date of Pronouncement | 02/06/2025              |

**ORDER**

**PER MANISH AGARWAL, AM:**

Both the appeals are filed by the Revenue against the orders of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi Appeal No. CIT(A), Delhi-40/10313/2018-19 and Appeal No. NFAC/2016-17/10028873 for Assessment Year 2016-17 and 2017-18 respectively.

2. In both the appeals, the Revenue has raised the grounds that the Ld. CIT(A) has erred in allowing the assessee's exemption u/s 11 & 12 when the activities of the assessee are commercial in nature and cannot be considered as charitable in nature.

3. Brief facts of the case are that assessee is engaged in publication of text book from class I to VIII Govt. Schools, MDC Schools, NDMC Schools and Delhi Cantonment Schools. The books are claimed to be published and sold at

subsidized rates with nominal profit to school students and wholesale dealers. Besides, the assessee society also claims to have distributed free books/reading material and school bags to needy students. The society is run and managed by the officials of Education Department of Govt. of Delhi. The assessee has claimed that its activities are charitable in nature and claimed deduction u/s 12 of the Act whereas the AO held that assessee is having commercial activities but sale of books of Rs.1,01,04,39,880 against cost of Rs.82,30,93,973/- and other expenditure is Rs.2,56,28,616/-. Thus, there is profit of Rs.16,17,17,291/- on sale of books which established that assessee is having huge profit margin and engaged in the earning profit. Before Ld. AO, the assessee submits that the assessee society is not involved in carrying out any activity in nature of Trade, Commerce and Business and it was established by the Delhi Government, keeping in view the purpose of spreading education. It was further submitted by the assessee that in its case the Hon'ble Delhi High Court had accepted that the activities of the assessee are charitable in business activities in Assessment Years 2006-07 to 2009-10 and orders were not accepted by the AO on the ground that the Department has preferred the SLP before the Hon'ble Delhi Court and matter has not reached the finality. Accordingly, the AO has computed the income of the assessee as normal business income. In first appeal, the Ld. CIT(A) relying on the decision of the Hon'ble Delhi High Court in the case of assessee itself and further by the decision of the Co-ordinate Bench of the ITAT for Assessment Years 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15 held the activities of assessee is a charitable in nature and, therefore, is allowed the exemption u/s 11 to the appeal of the assessee. Against the such order, the Revenue is in appeal before the Tribunal.

4. Heard both the parties. At the outset, in the instant case, both the parties before us have agreed that there is no change in the facts and circumstances as existed in earlier orders with respect to the activities carried out by the assessee. The Hon'ble Delhi High Court in ITA Nos.807, 810 to 812 of 2015, along with CM No.24170 of 2015 and ITA No.812/2015 for Assessment Years 2006-07, 2007-

08, 2008-09 and 2009-10 respectively. While allowing the appeal of the assessee has held as under:

*7.3 The Hon'ble Delhi High Court, in the order dated 03.05.2017 (supra), has held as under:*

*"27. Reverting to the case on hand, the Court finds that what the ITAT has held in the impugned order is contrary to the settled law as explained in the above decisions. The ITAT came to the erroneous conclusion that merely because the Assessee had generated profits out of the activity of publishing and selling of school text books it ceased carrying on the activity of 'education'. The ITAT failed to address the issue in the background of the setting up of the Assessee, its control and management and the sources of its income and the pattern of its expenditure. The ITAT failed to notice that the surplus amount was again ploughed back into the main activity of 'education'. The question to be asked was whether the activity of the Assessee contributed to the training and development of the knowledge, skill, mind and character of students? In the considered view of the Court, the answer to that question had to be, in the facts and circumstances outlined above, in the affirmative.*

*28. The Court, accordingly, concludes that the ITAT was incorrect in setting aside the order passed by the CIT (A) and in denying exemption to the Assessee under Section 11 and Section 12 of the Act. The ITAT erred in holding that the activities carried out by the Assessee fell under the 4th limb of Section 2 (15) of the Act, i.e., 'the advancement of any other object of general public utility' and that its activities were not solely for purpose of advancement of 'education'. Questions (1) and (ii) framed by the Court are, therefore, answered in the negative, i.e., in favour of the Assessee and against the Revenue.*

*Consistency*

*29. On the issue of consistency, the Court notes that in the present case, continuously from AYS 1971-72 till 2005-06, exemption had been granted to the Assessee under Sections 11 and 12 of the Act. When for AYs 1975-76 and 1976-77 the AO sought to take a different view, the ITAT reversed that view and the decision of the ITAT was not challenged further by the Revenue. Apart from the fact that the Assessee was earning more profits from its essential activity of education, there was no change in the circumstances concerning the said activity since AY 2005-06 to warrant a different approach in the AYS in question.*

*33. The decisions relied upon by Mr. Kaushik appear to have turned on their peculiar facts. The question that arose was whether merely because the Revenue did not file appeals against the decisions against it in some of the AYs, it could be precluded from challenging the decisions on the issue against it in the subsequent AYs. The facts here are stark, though. Having adopted a consistent stand for over 34 years, and with there being no change in the circumstances, there was no justification for the Revenue to take a different view in the matter only because it was possible to do so."*

5. Further the Co-ordinate Bench of the Tribunal in assessee's own case for Assessment Year 2010-11, in ITA No.764/Del/2014 has followed the aforesaid order of Hon'ble High Court. Further relying upon the judgment has held that the activities of the assessee society are educational activities, thus, is entitled

for exemption u/s 11 of the Act. The relevant observations of the Co-ordinate Bench are as under:

*"6. We have carefully gone through the record. There is no denial of the fact, as education within the meaning of section 2(15) of the Act and consequently eligible the exemption u/s 11 of the Act. Vide paragraph Nos. 20 to 28 of the order in Nos. 20 to 28 of the order in assessee's own case for the assessment years 2006-07 to 2009-10 the Hon'ble High Court, while referring to the decisions in Sole Trustee (1975) 101 ITR 234 (SC), Assam Text Book Production & Publication Corporation Limited vs. CIT (2009) 319 ITR 317 (SC), CIT vs. Rajasthan State Text Book Board (2000) 244 CTR 667 (Raj), Secondary Board of Education vs. ITO (1972) 86 ITR 408 (Ori), Institution of Chartered Accountants of India vs. Director General of Income Tax (Exemptions) (2012) 347 ITR 99 (Del), Commissioner of Income Tax vs. M.P. Rajya Pathya Pustak Nigam (2009) 226 CTR 497 (MP), General of Income Tax (Exemptions) (2014) 362 ITR 436 (Del), examined the question of interpretation placed on the word 'education' occurring in section 2(15) of the Act, and reached the conclusion that merely because the assessee had generated profits out of the activity of publishing and selling of School text books, it cannot be said that they ceased to carry on the activity of education and by following the rule of consistency, as explained in Parashuram Pottery Works Ltd. vs. Income Tax Officer (1977) 106 ITR 1 (SC), Radhasoami Satsang Saomi Bagh vs. Commissioner of Income Tax (1992) 193 ITR 321 (SC), Hoystead vs. Commissioner of Taxation (1926) AC 155 (PC), CIT vs. Excel Industries (2013) 262 CTR 261 (SC) the Hon'ble High Court held that the Revenue in the absence of any change of circumstances cannot take a different view from that taken in the earlier years. Now turning to the case on hand it is not the case of Revenue that any change in the circumstances had taken place. We, therefore, while respectfully following the decision of the Hon'ble Jurisdictional High Court agree with the submissions made by the Ld. AR and return a finding that the assessee has been engaged in the activity of education within the meaning of section 2(15) of the Act and consequently they are entitled for an exemption u/s 11 of the Act. With this view of the matter, we dismissed the grounds of appeal of the revenue."*

6. Further the Co-ordinate Bench of the ITAT in assessee's own case for Assessment Year 2011-12, 2012-13 and 2014-15 vide impugned order dated 09.12.2020 in ITA No.240-242/Del/2018 and for Assessment Year 2013-14 vide order dated 27.09.2011 in 7075/Del/2018 has allowed the appeals of the assessee.

7. Thus, considering the above facts, we find no infirmity in the order of Ld. CIT(A) in allowing the appeal of the assessee by following the orders or the Hon'ble Jurisdictional High Court and the Co-ordinate Bench of the Tribunal and granted the assessee exemption u/s 11 of the Act. It is further relevant to mention that SLP filed by the Revenue was dismissed being withdrawn by the Revenue on account of low tax effect and, therefore, as on date there was no SLP pending before Hon'ble Supreme Court against the order of Hon'ble

Jurisdictional High Court. In view of these facts, both the appeals of the Revenue are dismissed.

8. In the result, both the appeals of the Revenue are dismissed.

Order pronounced in the open court on 02.06.2025.

Sd/-  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Sd/-  
**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

Dated: 18.06.2025

PK/PS

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI