

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'I(2) + SMC-1' NEW DELHI**

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER,
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No. 2723/DEL/2019 (A.Y 2015-16)

Council of Handicrafts Development Corporation West Block No. 7, R. K. Puram New Delhi PIN: 110066 PAN: AAATC5655R (APPELLANT)	Vs	ITO Exemptions, Ward-1(3) New Delhi (RESPONDENT)
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Appellant by	Sh. S. K. Chaturvedi, CA
Respondent by	Sh. Pradeep Singh Gautam, Sr. DR

Date of Hearing	05.03.2020
Date of Pronouncement	15 .05.2020

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 22.02.2019 passed by CIT(A)-40, Delhi, for Assessment Year 2017-18.

2. The ground of appeal is as under:-

1. *"That Ld.CIT(A)-40, New Delhi has erred by confirming the action of Assessing Officer regarding denial of credit of TDS of Rs. 13,94,101/- on rental income collected by the appellant under an agreement on behalf of Development Commissioner (Handicrafts) Ministry of Textiles in respect of Rajeev Gandhi Handicrafts Bhawan, New Delhi."*

3. The assessee society was registered u/s 12A of the Income Tax Act on 5/1/1985. The main object of the assessee society is to assist grass root level organizations, NGO's, self help group and small entrepreneur engaged in the handicrafts to enhance and adopt skill through design interventions, enhance productivity and income through technical up gradation, the society sustainable development and responsible working conditions, assist in making through domestic and international channels and provide assistance and guidance for achieving better social environment. Return of income was filed on 23/9/2015 declaring income of Rs. 8,29,540/-. However, during the course of assessment proceedings, the assessee submitted computation of income wherein income has been declared at NIL after claiming benefit of exemption u/s 11 & 12 of the Income Tax Act. The Assessing Officer observed that the assessee is neither in the field of education nor in the field of medical relief or relief of poor, preserve of environment (including water sheds, forests and wild lives) and preservation of monuments or places or objects of artistic or historic interest. The Assessing Officer held that the entire receipts of sales are arising out of commercial transactions and thus made addition of Rs. 46,48,967/- towards the deduction of admissible expenses.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. AR submitted that the denial of credit of TDS on rental income collected by the assessee under an agreement on behalf of the development Commissioner (Handicrafts), Ministry of Textile in respect of Rajiv Gandhi Handicrafts Bhawan, New Delhi was not just and proper. The Ld. AR submitted that as the activities cannot be stated to be running of services in relation to any trade, commerce or business as per the provisions of Section 196, no tax is required to be deducted at source from any interest or dividend or other sums payable to the Government. The rental income pertains to the Government and that it was merely acting as an agent/licensee and was

collecting rent on behalf of the Government. The Ld. AR submitted that the Assessing Officer was not right in deducting TDS from the assessee as the assessee is not a service provider or the beneficiary/recipients of the payment. Therefore, the appeal of the assessee be allowed.

6. The Ld. DR submitted there is no provision under the Income Tax Act, wherein credit for tax deducted is given to a person other than in whose hand the income is assessable.

7. We have heard both the parties and perused the material available on record. Facts briefly show that the assessee was collecting rent on behalf of Government of India from the tenants and then remits that rent as it is back to the Government. The building is owned by the Government of India. The assessee is not the beneficial owner of the rent as property was given by the Government to the assessee for its use. The assessee was merely collecting the rent. Thus, the rent collected by the assessee is definitively its income and rent paid back to the Government is its expenses. It is a lease in & lease out agreement/understanding. Therefore, on the rent paid to the assessee by the tenants, tax is deductible under Section 194I of the Income Tax Act, 1961. As assessee pays the same to the Government, it does not need to deduct tax at source on its repayment to the Government. Thus, in all practical purposes rent collected by the assessee from its tenants and rent paid to the Government (actual transfer of rent to the Government) is its outgo. Therefore, tax deducted by the Tenant should be granted as refund to the assessee as rent collected is its income in hands of the assessee and rent paid to the Government is its expenses. Therefore, the Assessing Officer as well as the CIT(A) was not right in denying the credit of TDS to the assessee. Hence, the appeal of the assessee is allowed.

8. In result, the appeal of the assessee is allowed.

Order pronounced on this 15th Day of May, 2020.

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 15/05/2020
R. Naheed

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	17.03.2020
Date on which the typed draft is placed before the dictating Member	17.03.2020
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	15.05.2020
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	