

\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 13.11.2017

+ ITA 964/2017

THE COMMISSIONER OF INCOME TAX-EXEMPTION
..... Appellant

versus

THE FERTILIZERS ASSOCIATION OF INDIA
..... Respondent

+ ITA 966/2017

THE COMMISSIONER OF INCOME TAX-EXEMPTION
..... Appellant

versus

THE FERTILIZERS ASSOCIATION OF INDIA
..... Respondent

Present: Mr. Ruchir Bhatia with Mr. Puneet Rai &
Mr. Gaurav Khetarpal, Advs. for appellant.
Mr. Mayank Jain with Mr. Parmatma Singh &
Mr. Madhur Jain, Advs. for respondent.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

S. RAVINDRA BHAT, J.(ORAL)

1. Revenue is in appeal – in these two proceedings against two orders of the Income Tax Appellate Tribunal (ITAT) concerning the assessee for A.Y. 2010-11 and 2011-12 by which the amounts

received by the assessee and utilized, were held to be for the purposes of business and trade.

2. The assessee Association is a non-profit and non-trading company representing the interests of fertilizer manufacturers, distributors, importers, equipment manufacturers, research institutes and suppliers of inputs, registered under Section 25 of the Companies Act, 1956. In scrutiny assessment for A.Y. 2010-11, the AO was of the opinion that the exemption under Section 2(15) of the Act by virtue of the amendment of 2009 i.e. that the assessee was engaged in the advancement of general public utility, disentitled it to claim exemption in tax from payment of tax. One of the main grounds which influenced the AO to hold as it did, were the sums of money received by the assessee on account of registration charges, etc., for seminars/workshops held to inform its members.

3. The AO's order was affirmed by the CIT(A); the assessee therefore approached the ITAT. By the impugned order, the ITAT upheld the assessee's contention after noticing the amendments to the Income Tax Act, 1961 made in 2009. The ITAT also took note of several decisions such as *Commissioner of Sales Tax v. Sai Publication Fund* (2002) 258 ITR 70 (SC), *Addl. Commissioner of Income Tax v. Surat Art Silk Cloth Manufacturers Association* (1980) 121 ITR 1 (SC) and more importantly the recent decision of this Court in *India Trade Promotion Organization v. Director General of Income Tax (Exemptions) & Others* 371 ITR 333.

4. The Tribunal held as follows:-

“7.7 We also agree with the submissions made by the Ld. Counsel of the assessee that mere charging of fee from members or non-members for rendering services like training, conducting seminars would not ipso facto lead to denial of exemption. The dominant object of the assessee remains charitable and the aforesaid activities are only incidental to the main activity of the assessee. Also, the activities of the assessee are benefiting the public at large as submitted by the Ld. Counsel for the assessee. Furthermore, it is not the case of the department that any change in objects had taken place in the relevant year so as to take the assessee outside the ambit of section 2(15). The effect of the amendment has been discussed elaborately by the Hon’ble Delhi High Court in ITPO Case (supra) as well as the judgment of Apex Court in Andhra Pradesh Chamber of Commerce (supra) and the test of dominant object has not been altered even after the said amendment. We therefore hold that the denial of exemption under section 11 and 12 in the case of the assessee is not in accordance with law and accordingly the additions made by the AO and confirmed by the CIT(A) are deleted.”

5. Having regard to the entirety of circumstances, especially that the ITAT took note of the relevant decisions such as *Surat Art Silk Cloth Manufacturers Association* (supra), *CIT v. Andhra Chamber of Commerce* 55 ITR 722 and *India Trade Promotion Organization* (supra), the ratio of which were correctly applied, this Court is of the opinion that no substantial question of law arises.

6. The other questions urged arise from the application of income which was held not to be exempt under Section 11. Consequently,

those too do not arise for consideration in the present appeals.

7. The appeals are therefore dismissed.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

NOVEMBER 13, 2017

kks

