Commissioner of Income Tax, Shimla v. HP State Environment Protection and Pollution Control Board

Income Tax Appeal No.14 of 2014

Supplied court judgment; no neutral citation stated | 2018-10-11

By joint submissions, CIT(A) and ITAT orders set aside and the first appeal restored for fresh hearing; Court expressly declined any opinion on merits.

2(15) | 10 | 11

Division Bench | Sanjay Karol | Sandeep Sharma

01 FACTS OF THE CASE

The admitted questions concerned charitable purpose, statutory exemption and alleged perversity. Both sides stated that CIT(A)'s 10 May 2012 order in IT/448/11-12/Sml and ITAT's 16 April 2013 order in ITA 835/Chd/2012 should be set aside in view of the earlier 24 October 2017 order in ITA 2/2010 involving the Board.

Source: PDF pp.1–3

02 DISCUSSION BY THE HON'BLE COURT

The Court accepted the joint submissions and distinguished the procedural need for reconsideration from the substantive exemption issues. It expressly stated that no opinion on merits was being expressed.

Source: PDF pp.3–4

03 JUDICIAL DECISION

Both identified orders were quashed and set aside. CIT(A) Appeal IT/448/11-12/Sml was restored to its original number and position for a fresh decision after due opportunity of hearing to all concerned. The High Court appeal and pending applications were disposed of.

Source: PDF pp.3–4

04 OUTCOME / IN WHOSE FAVOUR

The result is a restored first appeal before CIT(A), not a final grant or denial of exemption to the Board.

Source: PDF pp.3–4

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05 EXPERT COMMENTS

Admitted questions must not be mistaken for answers on exemption — The first part reproduces questions concerning charitable purposes, Sections 2(15), 10 and 11, regulatory functions and alleged perversity. Those questions identify the controversy, but the final paragraph expressly disclaims any merits opinion. A case note stating that the Board was held charitable, or was definitively denied exemption because it exercised regulatory functions, would contradict that express limitation. (Source: PDF pp.1–2 and 4).

The operative restoration is before CIT(A), not the Tribunal or AO — The two set-aside orders are identified by their dates and appellate numbers. The restored proceeding is specifically Appeal IT/448/11-12/Sml before the Commissioner of Income Tax (Appeals), Shimla. It must be decided afresh after due hearing to all concerned. Describing this as a direct assessment remand to the AO, or a Tribunal-only rehearing, would misstate the selected forum and the actual procedural stage restored. (Source: PDF pp.2–4).

The earlier 2017 decision explains the joint request but is a distinct order — The Court records that its 24 October 2017 decision in ITA 2/2010 had set aside an initial exemption order and remanded that matter for reconsideration. That is the stated reason for the parties' joint request here. This 2018 appeal retains its own docket and operative orders; it should not be merged with the cited 2017 proceeding merely because the Board and exemption context overlap. The full earlier order is needed before making any independent claim about its reasoning. (Source: PDF pp.2–3).

A fresh hearing leaves the substantive result open — The due-opportunity direction protects the reconsideration process without prescribing which side should succeed. The source does not identify an assessment year, quantify the exemption or state the post-remand result. A practitioner tracing the same matter would need the restored appeal record and ensuing decision. This order supports the procedural reset by consent and its express merits reservation, rather than a final tax computation or broader rule for every regulatory body. (Source: PDF pp.3–4).

Source: PDF pp.1–4

SOURCE & VERIFICATION

Original court judgment / order

Full original read; every original page visually inspected.

STATUTORY SCOPE

Provisions and historical figures are recorded only as addressed in this judgment. No current statutory position or subsequent-treatment clearance is represented.

LATER TREATMENT

Appeal, review, recall and stay status has not been independently confirmed.

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