HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Income Tax Appeal No. 150/2017

Commissioner Of Income Tax (Exemptions), 3Rd Floor, Kailash Heights, Lal Kothi, Tonk Road, Jaipur.

----Appellant

Versus

Jaipur Development Authority, J.l.n. Marg, Jaipur.

----Respondent

Connected With

D.B. Income Tax Appeal No. 284/2010

Commissioner of Income Tax, Jaipur-II, Jaipur

----Appellant

Versus

Jaipur Urban Development Authority J.L.N. Marg, Jaipur

----Respondent

D.B. Income Tax Appeal No. 151/2017

Commissioner Of Income Tax (Exemptions), 3Rd Floor, Kailash Heights, Lal Kothi, Tonk Road, Jaipur

----Appellant

Versus

Jaipur Development Authority, J.l.n. Marg, Jaipur

----Respondent

D.B. Income Tax Appeal No. 152/2017

Commssioner Of Income Tax (Exemptions), 3Rd Floor, Kailash Heights, Lal Kothi, Tonk Road, Jaipur

----Appellant

Versus

Jaipur Development Authority, J.l.n. Marg, Jaipur

----Respondent

For Appellant(s) : Mr. Sandeep Pathak with

Mr. Dhairya Agarwal

For Respondent(s) : Mr. Rohan Chatter &
Ms. Satwika Jha for
Mr. Siddharth Ranka

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA

HON'BLE MRS. JUSTICE SANGEETA SHARMA

Judgment

22/01/2026
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1. These cases have been remanded back by the Hon’ble Supreme Court on the basis that earlier two appeals i.e. D.B. Income Tax Appeal Nos. 218/2017 and 113/2016, which were decided by this Court on 06.09.2017, had come up before the Supreme Court and vide order dated 08.09.2022, the said appeals have been remanded back by the Supreme Court. After remand, this Court on 02.08.2024 decided D.B. Income Tax Appeal No. 218/2017. This Court admitted the D.B. Income Tax Appeal No. 218/2017 on the following substantial questions of law, which read as under:

> “i) Whether on the facts and circumstances of the case and in law the Hon’ble ITAT has erred in law in allowing the exemption u/s 11 of the Act by holding that the activities of the assessee are charitable in nature even though the amended provision of section 13(8) r.w. 1st and 2nd proviso of section 2(15) are attracted?
> ii) Whether on the facts and in circumstances of the case and in law the Hon’ble ITAT has erred in law in allowing the benefits of set apart u/s 11(2) of the Act, deleting the additions of Rs. 79,76,39,913/- as unspent amount in spite of the fact that the provision of section 11(2) r.w.s. 11(3)(c) are attracted as assessee is not granted exemption u/s 11 & 12 of the Act?
> iii) Any other question of law as deemed fit in the facts and circumstances of the case may also be framed by the Hon’ble Court in the interests of justice.”

2. This Court further proceeded to examine the question in light of the judgment passed by the Supreme Court in the case of **Assistant Commissioner of Income Tax (Exemption) vs. Ahmedabad Urban Development Authority** reported in **[(2022) 449 ITR 1 (SC)]** and answered the substantial question No.1 against the Department. Considering that the question No. 1 was answered against the department, the action of treating the income to be a taxable income under Section 11(3) of the Income Tax Act, 1961 (for short 'the Act') was also held to be consequential and needed no adjudication.

3. We were told that the judgment dated 02.08.2024 passed by this Court has attained finality and the department has not challenged the same before the Supreme Court.

4. This Court, while admitting D.B. Income Tax Appeal No. 150/2017 framed the following substantial questions of law:

> *"(ii) Whether on the facts and circumstances of the case and in law the Hon'ble ITAT was justified in allowing the development expenditure of Rs.1,52,05,67,555/- by relying on the decision of Hon'ble ITAT in earlier year inspite of the fact the assessee has changed method of accounting.*
>
> *(iii) Whether on the facts and circumstances of the case and in law the Hon'ble ITAT was justified in allowing a sum of Rs.16,07,46,872/- on account of disallowing 5% of administrative expenditure related to change in accounting policy.*
>
> *(iv) Whether on the facts and circumstances of the case and in law the Hon'ble ITAT was justified in allowing Rs.1,81,89,705/- on account of depreciation on fixed assets without appreciating the facts that the application of 100% expenditure of the capital asset is already allowed as capital expenditure hence further allowance of the depreciation on the same capital asset would tantamount to double depreciation."*

5. This Court, while admitting D.B. Income Tax Appeal No. 151/2017 framed the following substantial questions of law:

> *"(i) Whether on the facts and circumstances of the case and in law the Hon'ble ITAT was justified in allowing Rs.1,02,65,650/- on account of depreciation on fixed assets without appreciating the facts that the application of 100% expenditure of the capital asset is already allowed as capital expenditure hence further allowance of the depreciation on the same capital asset would tantamount to double depreciation."*

6. This Court, while admitting D.B. Inocme Tax Appeal No. 152/2017 framed the following substantial questions of law:

> *"(ii) Whether on the facts and circumstances of the case and in law the Hon'ble ITAT was justified in allowing the development expenditure of Rs.4,34,36,55,736/- by relying on the decision of Hon'ble ITAT in earlier year inspite of the fact the assessee has changed method of accounting.*
>
> *(iii) Whether on the facts and circumstances of the case and in law the Hon'ble ITAT was justified in allowing a sum of Rs. 16,25,59,942/- on account of disallowing 5% of administrative expenditure related to change in accounting policy.*
>
> *(iv) Whether on the facts and circumstances of the case and in law the Hon'ble ITAT was justified in allowing Rs. 1,36,09,228/- on account of depreciation on fixed assets without appreciating the facts that the application of 100% expenditure of the capital asset is already allowed as capital expenditure hence further allowance of the depreciation on the same capital asset would tantamount to double depreciation."*

7. This Court, while admitting D.B. Income Tax Appeal No. 284/2010 framed the following substantial questions of law:

> *"(i) Whether overlooking of specific provisions of Section 10(20) and 10(20A) of the Income Tax Act, 1961 which categorically has taken away the exemption given to local authorities from income tax other than Panchayat and Municipal Boards was justified u/s 11–13 of the Act qua the assessee when exorbitant income of the tune of Rs. 161.00 crores is at stake?*
>
> *(ii) Whether claiming Tax Deducted at Source Certificate (TDS) on the one hand and not including the Income pertaining to it in the Return is not contrary to provisions of Income Tax Act more particularly Section 198 and 199?*

(iii) Whether the deletion of income on account of depositing the P.F. and ESI, qua the share of employees not deposited by the due date was justified when it was contrary to provisions of Section 36(1)(Va) read with Section 2(24)(x) and 43B(b)?"

8. The Department filed the Special Leave Petition (Civil) before the Supreme Court only with regard to the issue relating to the questions which were identical to the SLP(C) Nos. 12252/2018 and 23739/2018 wherein, the remand order has been passed on 08.09.2022 (supra) and this Court decided the case as noticed herein above upon the remand. Thus, the Supreme Court vide order dated 29.11.2024 observed that the present appeals should also be considered afresh in accordance with law on their own merits.

9. Vide order dated 02.08.2024 (supra) this Court answered the substantial question No. 1 in favour of the assessee and against the department, however, it referred to provisions of Sections 10 (20) and 10 (46) of the Act for the purpose. In the present cases, the department raised only the aspect regarding question under Section 10 (20) of the Act being not applicable and relied upon the order passed in SLP(C) Nos. 12252/2018 and 23739/2018 (supra) wherein, the Supreme Court had passed the remand order dated 08.09.2022. No other question was raised by the department.

10. It would be further apposite to quote the directions issued by the Supreme Court in the order dated 29.11.2024, while remanding the present cases as under:

"Learned counsel for the respondent submitted that although these appears are being remanded to the High court for a fresh consideration, the fact remains that the respondent-assessee has never claimed the benefit under Section 10 (20) of the Income Tax Act, 1961 (for short "Act") and therefore, the High Court was not justified in dismissing the appeals by considering the matter under Section 10(20) of the said act. However, since the aforesaid matters have been remanded to the High Court,

> *in the interest of consistency, we remand these matters also to the High Court for consideration afresh in accordance with law and on their own merits. The appeals shall be considered afresh as expeditiously as possible."*

11. We find that the department did not inform the Supreme Court that the High Court has already decided the matter and remanded back the D.B. Income Tax Appeal No. 218/2017 vide order dated 02.08.2024.

12. Be that as it may, since the present set of four appeals are required to be decided afresh on their own merits, we need not to go into the other questions, which have been already decided by this Court on 06.11.2017, as the department did not challenge or raise any objection relating to the questions of facts.

13. We find that essentially the substantial questions of law which were formulated in D.B. Income Tax Appeal No. 218/2017 would be the same as required to be decided in the present set of appeals.

14. Accordingly, we decide the present set of appeals on the aforesaid question(s) of law as decided by this Court in D.B. Income Tax Appeal No. 218/2017-Commissioner of Income Tax Exemptions vs. Jaipur Development Authority on 02.08.2024 and hold that the Income Tax Appellate Tribunal has rightly granted exemption under Section 11 of the Act by holding that the activities of the assessee are charitable in nature and therefore, consequential exemption was required to be granted on the benefits. The law as laid down in the case of **Assistant Commissioner of Income Tax (Exemption) vs. Ahmedabad Urban Development Authority** (supra) would apply mutatis mutandis in the present cases.

15. In view of the above, substantial questions of law, as framed, are decided in favour of the assessee and against the department. Having answered thus, we hold that the questions No.1 and 3 would also be answered in favour of the assessee which stood already adjudicated.

16. Accordingly, the appeals are dismissed.

17. All pending applications shall also stand disposed of.

(SANGEETA SHARMA),J (SANJEEV PRAKASH SHARMA),ACTING CJ

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