

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,
NEW DELHI**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER, AND
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER**

**ITA No. 1995/DEL/2015
[Assessment Year: 2011-12]**

The Dy. C.I.T
Central Circle - 1
Dehradun

Vs.

Shri Abhinav Bindra
80, Haridwar Road
Dehradun

PAN : AFSPB 7052 A

[Appellant]

[Respondent]

Date of Hearing : 20.08.2018

Date of Pronouncement : 20.08.2018

Assessee by : Shri Ashwini Kumar, CA
Shri Rahul Chourasia, CA

Revenue by : Smt. Aanchal Khandelwal, Sr. DR

ORDER

PER N.K. BILLAIYA, AM:-

This appeal by the Revenue is preferred against the order of the Commissioner of Income Tax [Appeals], Dehradun dated 06.01.2015 pertaining to assessment year 2011-12.

2. The substantive grievance of the Revenue reads as under:

“The CIT(A) erred in law and on facts in deleting the addition made under the head income from other sources relying on Circular No. 447 dated 22.01.1986 which is not in existence w.e.f 01.04.2005 as per clarification on Taxability of Awards for Sportmen (Circular No. 2/2014 [F. No. 199/01/2014-ITA-1]) and ignoring the fact that there is nothing on record to show that the Central Government has approved such awards and tax exemption has been granted to the assessee in respect of awards or rewards covered by such approval.”

3. During the course of scrutiny assessment proceedings, the Assessing Officer found that the assessee has received awards from the following authorities:

S. No.	Particulars of the Authority	Amount
1.	District Sport council Jalandher	81,818
2.	Ministry of Commerce [GOI]	5,00,000
3.	Ministry of Sport Authority of India	31,66,666
4.	Petroleum State Promotion Board	15,00,000
5.	Punjab Government	43,00,000
6.	Scholarship for Olympic 2012 [IOA]	1,44,219
Total		96,92,703

4. Drawing support from the amendment made in sections 17A, 17B and 18 by the Direct Tax Laws [Amendment] Act, 1987 w.e.f 01.04.1989, the Assessing Officer found that all these clauses merged into a single clause 17A and came to the conclusion that the awards received by the assessee have to be added back to the income of the assessee u/s 56 of the Act.

5. The assessee agitated the matter before the first appellate authority and claimed that the said awards are not taxable in the hands of the assessee in the light of CBDT Circular No. 447 dated 22.01.1986.

6. After considering the facts and detailed submissions, the Id. CIT(A) found that in A.Y 2009-10, the Tribunal has followed the same Circular and gave relief to the assessee. The relevant findings of the CIT(A) read as under:

"I have duly considered the facts & circumstances of the case. The Hon'ble ITAT in the assessee's own case in 59 SOT 87 (Del) 2013 for the A.Y. 2009-10 has held that as per Circular No. 447, the receipt by way of award by a sportsman who is not a professional sportsman will not be in the nature

of income. Further, it is held that section 10(17A) is not applicable where the above circular is applicable, in view of the fact that section 10 refers :: incomes that are not includable in total income and the Circular No. 447 of 1986 takes - - receipt out of the purview of the income. It is also held that section 56 falls under the "income from other sources" and only covers such income which is not chargeable to tax under the heads specified in section 14, Item No. A to E. However for the applicability of section 56, the receipt should be in the nature of the income. Since the receipt as per Circular No. 447 has been held not to be in the nature of income, section 56 * have application. Accordingly, the Hon'ble ITAT has held that the entire receipts in the form of awards/rewards received by the assessee are non-taxable on account of his amateur status In deference to the said judgement of the Hon'ble ITAT, the awards/rewards received by the assessee of Rs. 96,92,703/- from different sources are held to receipts not in the nature of income and hence not taxable in his hands. The addition made, therefore, deleted."

7. Aggrieved by this, the Revenue is before us.

8. The ld. DR pointed out that the Board Circular's No. 2/2014 [F. No. 199/01/2014-ITA-1]) has done away with the earlier Circular. It is the say of the ld. DR that there is nothing on record to show that the

Central Government has approved such awards and tax exemption has been granted to the assessee in respect of awards or rewards covered by such approval.

9. Per contra, the Id. A.R. drew our attention to the subsequent clarification by the Board which reads as under:

"ORDER [F. NO. 199/03/2013-ITA.1] -

*SECTION 10(17A) OF THE INCOME-TAX ACT, 1961 -
EXEMPTION - AWARDS INSTITUTED/APPROVED BY
CENTRAL/STATE GOVERNMENT UNDER CLAUSE (17A) FOR
PURPOSE OF EXEMPTION OF PAYMENT MADE IN PURSUANCE
THEREOF*

*SECTION 10(17A) OF THE INCOME-TAX ACT, 1961 -
EXEMPTION - AWARDS INSTITUTED/APPROVED BY
CENTRAL/STATE GOVERNMENT UNDER CLAUSE (17A) FOR
PURPOSE OF EXEMPTION OF PAYMENT MADE IN PURSUANCE
THEREOF*

ORDER [F. NO. 199/03/2013-ITA.1], DATED 28-1-2014

In pursuance of the powers conferred by sub-clause (ii) of clause (17A) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby approves any payment made, whether in cash or in kind, as a reward by the Central Government or a State Government to the medal winners of the Olympic Games or

Common Wealth Games or Asian Games with effect from the date of this order."

10. We have given thoughtful consideration to the orders of the authorities below. As mentioned elsewhere, the awards received by the assessee are all from Central Government or the State Government. Therefore, subsequent clarification mentioned hereinabove squarely applies on the facts of the case in hand. We, therefore, do not find any reason to interfere with the findings of the ld. CIT(A).

11. In the result, the appeal of the Revenue stands dismissed.

The order is pronounced in the open court on 20.08.2018.

Sd/-

**[RAJPAL YADAV]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 20th August, 2018

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the C. DR / DR	
Date on which the fair order is placed before the Dictating Member for pronouncement	
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