

**Court No. - 37****1. Case :- INCOME TAX APPEAL No. - 163 of 2010****Petitioner :-** The Commissioner Of Income Tax-I**Respondent :-** M/S Krishi Utpadan Mandi Samiti**Petitioner Counsel :-** Ashok Kumar**Respondent Counsel :-** Ashish Bansal,S.K.Garg**2. Case :- INCOME TAX APPEAL No. - 166 of 2010****Petitioner :-** The Commissioner Of Income Tax-I**Respondent :-** M/S Krishi Utpadan Mandi Samiti**Petitioner Counsel :-** Ashok Kumar**Respondent Counsel :-** Ashish Bansal,S.K.Garg**3. Case :- INCOME TAX APPEAL No. - 167 of 2010****Petitioner :-** The Commissioner Of Income Tax-I**Respondent :-** M/S Krishi Utpadan Mandi Samiti**Petitioner Counsel :-** Ashok Kumar**Respondent Counsel :-** Ashish Bansal,S.K.Garg**4. Case :- INCOME TAX APPEAL No. - 168 of 2010****Petitioner :-** The Commissioner Of Income Tax-I**Respondent :-** M/S Krishi Utpadan Mandi Samiti**Petitioner Counsel :-** Ashok Kumar**Respondent Counsel :-** Ashish Bansal,S.K.Garg**5. Case :- INCOME TAX APPEAL No. - 169 of 2010****Petitioner :-** The Commissioner Of Income Tax-I**Respondent :-** M/S Krishi Utpadan Mandi Samiti**Petitioner Counsel :-** Ashok Kumar**Respondent Counsel :-** Ashish Bansal,S.K.Garg**6. Case :- INCOME TAX APPEAL No. - 170 of 2010****Petitioner :-** The Commissioner Of Income Tax-I**Respondent :-** M/S Krishi Utpadan Mandi Samiti**Petitioner Counsel :-** Ashok Kumar**Respondent Counsel :-** Ashish Bansal,S.K.Garg**7. Case :- INCOME TAX APPEAL No. - 171 of 2010****Petitioner :-** The Commissioner Of Income Tax-I**Respondent :-** M/S Krishi Utpadan Mandi Samiti**Petitioner Counsel :-** Ashok Kumar**Respondent Counsel :-** Ashish Bansal,S.K.Garg**8. Case :- INCOME TAX APPEAL No. - 173 of 2010****Petitioner :-** The Commissioner Of Income Tax-I**Respondent :-** M/S Krishi Utpadan Mandi Samiti

**Petitioner Counsel :-** Ashok Kumar  
**Respondent Counsel :-** Ashish Bansal,S.K.Garg

**9. Case :-** INCOME TAX APPEAL No. - 175 of 2010

**Petitioner :-** The Commissioner Of Income Tax-I  
**Respondent :-** M/S Krishi Utpadan Mandi Samiti  
**Petitioner Counsel :-** Ashok Kumar  
**Respondent Counsel :-** Ashish Bansal,S.K.Garg

**10. Case :-** INCOME TAX APPEAL No. - 183 of 2010

**Petitioner :-** The Commissioner Of Income Tax-I, Kanpur  
**Respondent :-** M/S Krishi Utpadan Mandi Samiti,Naubasta, Kanpur  
**Petitioner Counsel :-** Ashok Kumar  
**Respondent Counsel :-** Ashish Bansal,S.K.Garg

**11. Case :-** INCOME TAX APPEAL No. - 185 of 2010

**Petitioner :-** The Commissioner Of Income Tax-I, Kanpur  
**Respondent :-** M/S Krishi Utpadan Mandi Samiti, Pukhrayan, Kanpur Dehat  
**Petitioner Counsel :-** Ashok Kumar  
**Respondent Counsel :-** Ashish Bansal,S.K.Garg

**12. Case :-** INCOME TAX APPEAL No. - 189 of 2010

**Petitioner :-** The Commissioner Of Income Tax-I Kanpur  
**Respondent :-** M/S Krishi Utpadan Mandi Kanpur Dehat  
**Petitioner Counsel :-** S.C.,Ashok Kumar  
**Respondent Counsel :-** Ashish Bansal,S.K.Garg

**Hon'ble Yatindra Singh, J.**  
**Hon'ble Prakash Krishna, J.**

1. These twelve appeals arise out of an order dated 1.12.2009 of the Income Tax Appellate Tribunal, Lucknow Bench, Lucknow (the Tribunal) in respect of assessment year 2003-2004 up to 2005-2006 in respect of different Krishi Utpadan Mandi Samitis (the Samitis) incorporated under UP Krishi Utpadan Mandi Adhiniyam, 10964 (the Mandi Act).

2. The Samitis had not filed any return for the relevant assessment years. Subsequently, notices under section 148 of the Income Tax Act, 1961 (the Act) were issued against them. They filed their returns showing nil income on the ground that they are charitable institutions entitled to registration under section 12AA of the Act. At that time, they had applied for the registration but the same was not granted to them.

3. The Assessing Officer did not accept the contention of the Samitis and

assessed them accordingly.

4. The Samitis filed appeals. These appeals were dismissed by separate orders passed by the Commissioner (Appeals). They filed second appeal before the Tribunal. These appeals were consolidated and by a common order were allowed on 1.12.2009. It was held that the Samitis are charitable institutions and are entitled to be registered under section 12AA of the Act. The Tribunal relied upon its earlier decision and held that as the Samitis are charitable institutions there is no question of assessing their income.

5. Aggrieved by the aforesaid order, the Department has filed the present appeals.

6. We have heard Sri Ashok Kumar, counsel for the Department, and Sri SK Garg and Sri Ashish Bansal for the respondents.

7. The questions, whether the Samitis are charitable institutions or not and whether they are entitled to be registered under section 12 AA of the Act, were agitated before a Division Bench of the Lucknow Bench of this Court in bunch of appeals. The leading case was Income Tax Appeal No.80 of 2007. These appeals were against the order of the Tribunal granting registration to the Samitis under section 12AA of the Act.

8. In the aforesaid case, the basic question was whether the Tribunal was justified in allowing the registration of the Samitis under section 12 AA of the Act or not. The Division Bench observed as follows:

'We do not see any good reason for holding that statutory bodies like market board and market committees under reference could not be treated as "charitable" within the meaning of S.2(15) of the IT Act.

Therefore, we do not find any objectionable material to treat these institutions as non-charitable'.

9. The Division Bench dismissed the appeal filed by the Department and held that they were entitled to be registered under section 12 AA of the

Act.

10. For the reasons mentioned therein, it cannot be said that the Tribunal committed any illegality in holding that the Samitis are charitable institutions.

11. It is not disputed that in case the Samitis are charitable institutions, then, there is no question of assessing their income.

12. The other question involved in this bunch of appeals is, whether the amount sent by the Samitis to the Board is the utilisation of the money so as to claim allowance for the same.

13. This question was decided by us today in bunch of appeal, the leading is ITA No. (58) of 2010 : CIT Vs. Krishi Utpadan Mandi Samiti Chharra. We have held that the amount sent by the Samiti to the Board is the money spent.

14. For the reasons mentioned therein, this point is also decided against the department.

15. In view of the above, there is no merit in the appeals. They are dismissed.

**Order Date :- 2.12.2010**  
LBV