

IN THE INCOME TAX APPELLATE TRIBUNAL  
“ B” BENCH : BANGALORE

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER  
AND SHRI A.K. GARODIA, ACCOUNTANT MEMBER

ITA No.737/Bang/2015
Assessment year : 2011-12

M/s. Rajajinagar Parents Education Society, CA-2V Block, Rajajinagar, Bangalore – 560 010. <b>PAN: AAATR 5640K</b>	Vs.	The Deputy Director of Income Tax (Exemptions), Circle 17(2), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri A.R. Vivek, Advocate
Respondent by	:	Smt Padma Meenakshi, Jt.CIT(DR)(ITAT), Bengaluru

Date of hearing	:	07.11.2017
Date of Pronouncement	:	10.11.2017

**ORDER**

*Per Sunil Kumar Yadav, Judicial Member*

This appeal is preferred by the assessee against the order of the DDIT(Exemptions) *inter alia* on the following grounds:-

“1. The appellant denies itself liable to be assessed at Rs,32,51,084/ - as against the returned nil income in the return of income on the facts and circumstance of case.

2. The order of assessment and the appellate order have been passed without appreciating the facts and circumstance of the case, incorrect interpretation of law.

3. The appellate authority failed to appreciate that, the definition of income under section 2(24) include all the income accumulated to the assessee, the appellate authority has added a friction by restricting the definition to net income in computing total accumulated income which is contrary to the intent and purpose of section 11 of the act.

4. The assessing officer and the appellate authority failed to follow the decision of supreme court in the case of CIT Vs Programme for Community organisation reported in 116 Taxman 608(SC) on the facts and circumstance of the case.

5. The assessing officer and the appellate authority failed to follow the clarification issued to circular 5-P(LXX-6) and apply to the facts and circumstances of the case.

6. The assessing officer and the appellate authorities failed to appreciate that section 11 uses the word income and not the term net income, hence the income to be taken for calculating accumulation has to be all the receipts to the assessee and not the net of the income as computed by the assessing officer and confirmed by the appellate authority.

7. The appellant denies itself liable to pay interest under section 234B of the Act on the facts and circumstances of the cases.

8. The appellant crave leave to add and alter the grounds of appeal during the course of hearing.”

2. Though various grounds are raised, but they all relate to an issue whether accumulation of income provided after the application of income for charitable purposes u/s. 11(1)(a) should be with reference to gross or net income. In this regard, the ld. counsel for the assessee has contended that this issue is squarely covered by the orders of the Tribunal in the case of *Jyothi Charitable Trust v. DCIT, ITA No.662/Bang/2015* and *Society of*

*the Servants of the Holy Spirit v. DCIT, ITA No.975/Bang/2015* of this Bench in which it has been held that assessee's claim for accumulation u/s. 11(1)(a) could not have been restricted and was eligible for accumulation of 15% of gross receipt from all streams of its income. Copies of the orders of the Tribunal are placed on record.

3. The Id. DR placed reliance upon the order of the CIT(Appeals).

4. Having carefully examined the orders of the authorities below and the orders of the Tribunal referred to by the parties, we find that undisputedly the impugned issue is squarely covered by the orders of the Bangalore Bench of the Tribunal in the case of *Jyothi Charitable Trust (supra)* and *Society of the Servants of the Holy Spirit (supra)* in which it has been categorically held that assessee's claim for accumulation u/s. 11(1)(a) of the Act could not have been restricted and was eligible for accumulation of 15% of gross receipts from all streams of income. In the light of these facts, we set aside the order of the CIT(Appeals) and direct the AO to allow the accumulation @ 15% of gross receipts from all streams of its income.

5. In the result, the appeal of the assessee stands allowed.

Pronounced in the open court on this 10<sup>th</sup> day of November, 2017.

Sd/-

( A.K. GARODIA )  
Accountant Member

Sd/-

( SUNIL KUMAR YADAV )  
Judicial Member

Bangalore,  
Dated, the 10<sup>th</sup> November, 2017.

/ Desai Smurthy /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Senior Private Secretary  
ITAT, Bangalore.