

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'डी', अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“ D ” BENCH, AHMEDABAD**

सर्वश्री एस.एस.गोदारा, न्यायिक सदस्य एवं प्रदीप कुमार केडिया, लेखा सदस्य के समक्ष ।  
**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER &**  
**SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No.1156/Ahd/2016  
(निर्धारण वर्ष / Assessment Year : 2012-13)

The Income Tax Officer (Exemptions) Ward-1, Ahmedabad-380 009	<b>बनाम/ Vs.</b>	Indian Medical Association National Society Security Scheme AMA House, 2 <sup>nd</sup> Floor, Nr.Natraj Cinema Ashram Road Ahmedabad-380 009
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAATI 0813P		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri V.K. Singh, Sr.DR
प्रत्यर्थी की ओर से/Respondent by :	Shri Bhadresh, AR

सुनवाई की तारीख / Date of Hearing	20/02/2018
घोषणा की तारीख/Date of Pronouncement	23/ 02 /2018

**आदेश / ORDER**

**PER PRADIP KUMAR KEDIA - AM:**

The captioned appeal has been filed at the instance of the Revenue against the appellate order of the Commissioner of Income Tax(Appeals)-9, Ahmedabad [CIT(A) in short] dated 18/02/2016 arising in the assessment order passed under s.143(3) of the Income Tax

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Act, 1961 (hereinafter referred to as "the Act") dated 24/03/2015 relevant to Assessment Year (AY) 2012-13.

2. The revenue has agitated the reversal of disallowance of assessee's claim for accumulation of profit under s.11(2) of the Act amounting to Rs.61,50,000/- by the CIT(A).

3. We have examined the issue in the light of the orders of the authorities below. The controversy is in narrow compass where the accumulation if not utilized can be treated as income of the trust in the subsequent AY 2013-14 and not in the AY 2012-13. It is *inter alia* alleged that The AO has wrongly counted window of five years available under s.11(2) r.w.s. 11(3)(c) of the Act.

4. We find that the CIT(A) has taken note of the relevant facts and held that period of five years contemplated under s.11(2)(a) will fall in the subsequent AY 2012-13 for the purposes of unutilized income of Rs.61.50 lakhs set apart and claimed as application during AY 2007-08. The relevant operative para of the order of the CIT(A) read as under:-

*“4.2. I have carefully considered the rival contention as well as the observation of the AO. It is observed that AO has made an addition of Rs.61,50,000/- being amount accumulated u/s.11(2) of the Act for AY 2007-08 on the ground that accumulated income has not been utilized for the purpose for which it was accumulated at the end of fifth year.*

*The AO has observed that trust has not utilized Rs.61.50 lacs set apart and claimed as application during AY 2007-08. In its written submission appellant has submitted that appellant has been set up to provide security to the life members of India Medical Association National Social Security Scheme. The appellant has given a Note detailing the various aspects of the scheme. It was submitted by the appellant that application was made by it during AY 2007-08 u/s.11(2) for accumulation of income. Five years were completed on 31-3-2012. Appellant has relied upon section 11(3)(c) of the Act. It states as follows:*

*“11(3)(c) is not utilized for the purpose for which it is so accumulated for set apart during the period referred to in clause (a) of that sub section or in the year immediately following the expiry thereof”.*

*According to the appellant if the accumulated income is not applied within the period for which it is accumulated, then the same is treated as income after expiry of five years. According to the appellant the accumulation if not utilized would be treated as income of the trust for AY 2013-14 and not for AY 2012-13, as period of five years of accumulation would be ending on 31-3-2012.*

*I agree with the contentions of the appellant. As per section 11(3)(c) if the accumulated income is not utilized by the trust, then it would be considered as income of the year immediately following the expiry of period of five years of accumulation. The year under consideration is AY 2012-13. Therefore, I am of the considered opinion that AO has made an addition of Rs.61,50,000/- in the fifth year of accumulation i.e. AY 2012-13, the year under consideration. Accordingly, AO is directed to delete the addition of Rs.61,50,000/-. This ground of appeal is allowed.”*

5. We find the conclusion of the CIT(A) is in consonance with the provisions of Act and does not call for any interference.

6. In the result, appeal of the Revenue is dismissed.

**This Order pronounced in Open Court on 23 / 02/2018**

Sd/-  
(एस.एस.गोदारा)  
न्यायिक सदस्य  
( S.S. GODARA )  
**JUDICIAL MEMBER**  
Ahmedabad; Dated 23/ 02/2018

Sd/-  
(प्रदीप कुमार केडिया)  
लेखा सदस्य  
( PRADIP KUMAR KEDIA )  
**ACCOUNTANT MEMBER**

टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-9, Ahmedabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Ahmedabad