

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1851/PUN/2016
निर्धारण वर्ष / Assessment Year : 2011-12

Maharshi Karve Stree Shikshan
Samstha,
Karvenagar, Pune
PAN : AAATM1969L

Vs.

ITO, Ward-11(1),
Pune

आयकर अपील सं. / ITA No.2179/PUN/2016
निर्धारण वर्ष / Assessment Year : 2011-12

DCIT (Exemption) Circle,
Pune

Vs.

Maharshi Karve Stree
Shikshan Samstha,
Karvenagar, Pune
PAN : AAATM1969L

(Appellant)

(Respondent)

Assessee by
Revenue by

Shri Nikhil S. Pathak
Shri Amol Kamat

Date of hearing 24-01-2019
Date of pronouncement 25-01-2019

आदेश / ORDER

PER R.S.SYAL, VP :

These are two cross appeals, one by the assessee and the other by the Revenue arise out of order of CIT(A)-10, Pune passed on 15-07-2016 in relation to the assessment year 2011-12.

2. The Revenue in the instant appeal has raised the following grounds of appeal :

“1. Whether on the facts and in the circumstances of the case and in law, a claim for carry forward of deficit in the case of a trust can be accepted and be allowed as held in the case of Trustees of Shri Satyasai Trust decided by the Hon’ble ITAT, Mumbai Bench in 33 ITD 320, Mumbai.

2. Whether on the facts and in the circumstances of the case and in law, the Trust is entitled to claim benefit u/s.11(1)(a) of the I.T. Act, 1961 when the application of income during the year is more than the gross receipts?

3. Whether on the facts and in the circumstances of the case and in law, the CIT(A) has erred in holding that the trust would be entitled to claim excessive carry forward of deficit which results after making an allowance @15% gross receipts u/s.11(1)(a) of the Income Tax Act, 1961 and then claiming the appreciation of income to the extent of the expenses incurred on the objects of the trust.”

3. Briefly, the facts of the case, are that the assessee filed its return declaring total income at Nil. During the course of assessment proceedings, the assessee submitted that the assessee trust was duly registered u/s.12A vide certificate dated 26-08-1974 and was also eligible for exemption u/s.10(23C)(vi) of the Income-tax Act, 1961 (hereinafter also called as ‘the Act’). The Assessing Officer rejected the assessee’s contention and determined total income at Rs.9,89,36,490/-. The Id. CIT(A) dismissed the assessee’s contention on registration u/s.10(23C). He, however, allowed exemption u/s.11 of the Act. That is how, both the sides have come up in appeal before the Tribunal.

4. We have heard both the sides and gone through the relevant material available on record. It is observed that similar action was taken by the AO for the A.Y. 2008-09. The Id. CIT(A) also took similar view as has been taken for the instant year. When the matter finally came up before the Tribunal, the Revenue's appeal was dismissed and the assessee's appeal was also held to be academic in view of grant of benefit u/s.11 of the Act. We have perused the grounds of appeal incorporated in the aforesaid order of the Tribunal for the A.Y. 2008-09 and find that they are similar to those taken by the Revenue in the instant appeal. The Id. DR also fairly conceded that the facts and circumstances of the instant case are *mutatis mutandis* similar to those of A.Y. 2008-09. Respectfully following the precedent, we dismiss the Revenue's appeal on merits and the assessee's appeal as having become academic in nature.

5. In the result, both the appeals are dismissed.

Order pronounced in the Open Court on 25th January, 2019.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 25th January, 2019

सतीश

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-10, Pune
4. The CIT-10, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय
अधिकरण, पुणे "बी" / DR 'B', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	24-01-2019	Sr.PS
2.	Draft placed before author	24-01-2019	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
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10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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