

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

**BEFORE SHRI D. KARUNAKARA RAO, AM
AND SHRI PARTHA SARATHI CHAUDHURY, JM**

आयकर अपील सं. / ITA No.2163/PUN/2017
निर्धारण वर्ष / Assessment Year : 2010-11

DCIT, (Exemption) Circle,
Pune.

.....अपीलार्थी / Appellant

बनाम / V/s.

International Institute of
Information Technology,
Plot No.5, Harmony Complex,
ICS Colony, Ganeshkhind Road,
Pune-411007.

PAN : AAATH0698B

.....प्रत्यर्थी / Respondent

Revenue by : Shri Hoshang B. Irani
Assessee by : Shri Nikhil Pathak

सुनवाई की तारीख / Date of Hearing : 14.11.2019
घोषणा की तारीख / Date of Pronouncement : 19.11.2019

आदेश / ORDER

PER D. KARUNAKARA RAO, AM:

This appeal filed by the Revenue is against the order of the CIT(A)-10,
Pune dated 30.06.2017 for the assessment year 2010-11.

2. The effective ground raised by the Revenue is as under :-

"1. The ld. CIT(A) has erred in allowing the carry forward of deficit of earlier year and to set it off against the income of the current year, when in fact there are no such provisions contained in the Income Tax Act, 1961 and also without considering that Hon'ble Supreme Court has admitted an SLP on this very issue in the case of Mumbai Education Trust reported in (2016) 76 Taxmann.com 347 (SC)."

3. Before us, at the outset, ld. Counsel for the assessee submitted that the issue for adjudication relates to correctness of claim of allowing set off of the carry forward of deficit of earlier years with the income of the current year and the applicability of the Jurisdictional High Court's judgement in the case of

Mumbai Education Trust (supra) which decided in favour of the assessee and the SLP, filed by the Revenue, admitted by the Hon'ble Supreme Court.

4. Referring to the said issue, ld. Counsel brought our attention to the said judgement of the Jurisdictional High Court (supra) and submitted that the High Court decided the issue in favour of assessee in allowing such set-off of the carry forward deficit of earlier years against the income of the current year.

5. On the other hand, ld. DR for the Revenue argued that although the issue decided against the Revenue but the matter is now admitted by the Hon'ble Supreme Court in SLP and the issue is pending for adjudication.

6. After hearing both the sides on this issue, we perused the order of the CIT(A) and find the decision taken by the CIT(A) is fair and reasonable as he followed the binding Jurisdictional High Court's judgement in the case of CIT vs. Institute of Banking Personnel Selection, 264 ITR 110 (Bom) and others. Further, we find similar views taken in favour of the assessee by the Pune Bench of the Tribunal in the case of Maharshi Karve Stree Shikshan Samstha Karvenagar vs. ITO, 101 taxman.com 175 (Pune-Trib.). Considering the settled nature of the issue at the level of Hon'ble Jurisdictional High Court in the case of Mumbai Education Trust (supra), we find relevant to extract the following held portion of the Hon'ble Bombay High Court (supra) :-

*“IT: Assessee education trust could claim depreciation on assets acquired for purpose of carrying out charitable activities and **could also carry forward deficit of earlier years and set it off against income of current year.**”*

7. Considering the above, we are of the opinion that the order of the CIT(A) is fair and reasonable on this issue and it does not call for any interference. Thus, the ground raised by the Revenue is dismissed.

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

Order pronounced on 19th day of November, 2019.

Sd/-

Sd/-

(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

(D. KARUNAKARA RAO)
लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 19th November, 2019

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-10, Pune.
4. The Pr. CCIT, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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