

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC, "A" BENCH : BANGALORE**

BEFORE SHRI B.R BASKARAN, ACCOUNTANT MEMBER

ITA No.2005/Bang/2019
Assessment year : 2016-17

M/s The Malleshwaram Association, No.110, 7 th Cross, Malleshwaram, Bengaluru-560 003. PAN – AAAAT 0715 E	Vs.	The Asst. Commissioner of Income-tax, Circle-2(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri Sandeep, C.A
Respondent by	:	Shri Ganesh R Ghale, Advocate Standing Counsel to Dept.

Date of hearing	:	27.11.2019
Date of Pronouncement	:	.11.2019

ORDER

Per B.R Baskaran, Accountant Member

The assessee has filed this appeal challenging the order dated 03-06-2019 passed by Ld CIT(A)-2, Bengaluru and it relates to the assessment year 2016-17. All the grounds urged by the assessee relate to the rejection of claim of the assessee for set off of loss arising from club activities against rental and interest income.

2. The assessee is a mutual association providing various facilities to its members. The income arising from such activities are claimed as exempt under the Principles of Mutuality. The assessee has also derived rental income and interest income. During the year under consideration, it filed its return of income

declaring income of Rs.46.53 lakhs, admittedly consisting of rental and interest income. Subsequently, it revised its return, wherein the total income was declared at Rs.447/-. In the revised return of income, the assessee had set off the loss arising from club activities against the rental & interest income. Since income arising from club activities is exempt under the Principles of Mutuality, the AO rejected the claim of set off of loss arising from club activities. The Ld CIT(A) also confirmed the same.

3. The Ld A.R submitted that the assessee has duly offered the rental income and interest income for taxation, as the Principles of Mutuality would not apply to the same. He submitted that the deposits were made and the building was constructed by using funds collected from the members only. Since the club activities resulted in loss and since the funds contributed by the members were only used to construct building and make fixed deposits, the assessee has sought deduction of above said loss against the rental & interest income. The Ld A.R submitted that, if the assessee's claim is rejected by the Tribunal, then adhoc deduction towards expenses may be given against interest income, since the part of establishment expenses could be attributed to interest income also.

4. The Ld D.R, on the contrary, submitted that there is no provision under the Act to allow set off of loss arising from club activities (income of which is exempt under Principle of Mutuality) against income taxable under the Act. With regard to alternative contention for adhoc deduction of expenses incurred for earning interest income, the Ld D.R submitted that the assessee has failed to show that it has incurred any expenditure in earning the interest income.

5. I heard the parties and perused the record. I agree with the submission of Ld D.R that there is no provision under the Act to allow set off of loss arising from club activities (income of which is exempt under Principle of Mutuality) against income taxable under the Act. Hence I am of the view that the tax authorities are right in law in rejecting the claim of the assessee. With regard to alternative claim of the assessee also, I agree with the submission of Ld D.R that the assessee has failed to show that it has incurred any expenditure in earning interest income. Accordingly the alternative contention of the Ld A.R is also rejected.

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

Order pronounced in the open court on **27th November, 2019.**

Sd/-
(B.R Baskaran)
Accountant Member

Bangalore,
Dated, the 27th November, 2019.

/Vms/
Copy to:

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

By order

Asst. Registrar, ITAT, Bangalore

1. Date of Dictation
2. Date on which the typed draft is placed before the dictating Member
3. Date on which the approved draft comes to Sr.P.S
4. Date on which the fair order is placed before the dictating Member
5. Date on which the fair order comes back to the Sr. P.S.
6. Date of uploading the order on website.....
7. If not uploaded, furnish the reason for doing so
8. Date on which the file goes to the Bench Clerk
9. Dictation note enclosed
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13. The date on which the file goes to dispatch section for dispatch of the Tribunal Order
14. Date of Despatch of Order.
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