

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH “G”, MUMBAI  
Before Shri Pawan Singh (JM) & Shri S.Rifaur Rahman(A.M.)

ITA No. 6469/Mum/2018(Assessment year : 2009-10)

Dy.CIT(E)-2(1), Mumbai	vs	Saurashtra Trust, Janmabhoomi Bhavan, Janmabhoomi Marg, Fort Mumbai-400 001 PAN : AAATS2786B
<b>APPELLANT</b>		<b>RESPONDEDNT</b>

Appellant by	Shri Vinodkumar Sr DR
Respondent by	Ms. Ruchi Tamhankar AR
Date of hearing	14-01-2020
Date of pronouncement	14 -01-2020

**ORDER**

**PER PAWAN SINGH, JM :**

1. This appeal by revenue is directed against the order of CIT(A)-7, Mumbai dated 03-08-2018 for assessment year 2009-10. The revenue has raised the following ground of appeal:-

*“1. ""Whether on the facts and in the circumstance of the case and in law, the Tribunal was right in upholding the decision of the Commissioner of Income Tax (A) of directing the Assessing Officer to allow the deduction u/s.24 of the Income Tax Act, 1961, whereas provisions of Section 11 to 13 clearly speaks of the income for determining the total income of the trust for quantification of application of the object the trust?”*

2. Brief facts of the case are that assessee is a registered trust, having registration u/s 12A of the I.T. Act, 1961. The assessee filed return of income on 30-09-2009 declaring income of Rs.44,15,288/-. In the

return of income, the assessee has shown rental income from two properties, viz. Rajkot property of Rs.1,020/- and Mumbai property of Rs.2,23,44,981/- and service charges of Rs.85,68,380/-. After claiming deduction of municipal and land tax of Rs. 2,95,779/- and statutory deduction @30% of Rs.91,94,673/-, the remaining amount was offered to tax. The AO took a view that provisions of section 23 & 24 are not application in case of trust and accordingly statutory claim of deduction of 30% amounting to Rs.91,94,673/-was disallowed. On appeal before CIT(A), the statutory deduction was allowed by following the decision of the Tribunal in the case of Sri Sathya Sai Trust in ITA No.7350/Mum/2011. Thus, aggrieved by the deletion of addition, the revenue has filed this appeal before the Tribunal.

3. At the outset of hearing, the Ld.AR of the assessee submits that the tax effect involved in the present appeal is less than the monetary limit of Rs.50 lakhs fixed by the CBDT in its circular No.17/2019 dated 8<sup>th</sup> August 2019, therefore, the appeal filed by the revenue is not maintainable. The Ld.AR of the assessee also furnished the working of tax effect on disputed addition which comes to Rs.27,58,402/-.
4. On the other hand, the Ld. departmental representative (DR) for the revenue, after going through the working of tax effect, though not

disputed the working of tax effect, submits that he would rely upon the order of AO.

5. We have considered the submission of both the parties and find that the disputed addition in the present appeal with regard to the deduction u/s 24 is only of Rs.91,94,673/- on which the tax effect is only Rs.27,58,402/- . The quantum of tax effect is not disputed by the Ld. DR for the revenue. Considering the fact that tax effect involved in the present appeal is less than the monetary limit of Rs. 50 Lakhs, fixed by the CBDT; hence, the appeal filed by the revenue is not maintainable and, therefore, dismissed.
6. In the result, appeal filed by the revenue is dismissed.

Order pronounced in the open court on 14 -01-2020.

Sd/-

Sd/-

(S.Rifaur Rahman)	(Pawan Singh)
ACCOUNTANT MEMBER	JUDICIALMEMBER

Mumbai, Dt : 14<sup>th</sup> January, 2019

Pk/-

Copy to :

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

/True copy/

By order

Asstt. Registrar, ITAT, Mumbai