



**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI R.C. SHARMA, ACCOUNTANT MEMBER &
SHRI C.N. PRASAD, JUDICIAL MEMBER**

ITA NO.7522/MUM/2018 : A.Y : 2014-15

**M/s. Hindustan Lever Educational and Welfare Trust
Unilever House
B.D.Sawant Road
Chakala, Andheri (East)
Mumbai – 400 099** vs **ACIT (EXEMPT)-II
Mumbai
1, Pirmal Chambers
Lalbaug, Mumbai – 400 012**

PAN NO: AAATH1613E

**Assessee by : Shri D.B. Shah
Revenue by : Shri Satishchandra Rajore**

**Date of Hearing : 27/02/2020
Date of Pronouncement : 04 /03/2020**

ORDER

PER R.C. SHARMA, ACCOUNTANT MEMBER

This is an appeal filed by the assessee against the order of CIT(A)-3 Mumbai dated 22/06/2018 for A.Y.2014-15 in the matter of order passed by AO u/s.143(1) of the Income Tax Act, 1961.

2. In this appeal assessee is basically aggrieved for disallowance of deduction u/s.11(2) of the IT Act amounting to Rs.5,61,256/-.

3. Rival contentions have been heard and record perused. Facts in brief are that assessee trust was constituted by Trust Deed dated 18 June 1986. The Trust was granted registration under Section 12A (a) of the Income-tax Act, 1961 ("the Act") on 15 October 1987. For the year under appeal, the Trust decided to accumulate surplus and filed Form No. 10 as

well as Resolution of the Trustees in that regard on 03 June 2014 vide letter dated 23 April 2014. While processing return u/s.143(1), AO ignored the accumulation u/s.11(2) of the IT Act.

4. By the impugned order, CIT(A) confirmed the action of the AO by observing as under:-

“6.1 I have considered the contentions of the appellant. I find from the return of income that in Part B-TI (statement of total income) against gross income (item no. 6), the appellant had shown gross income of 46,13,546/-. I also find from item no. 9(iv) of part B -TI that amount accumulated or set apart for application to charitable purposes u/s 11(la)/11(lb) was left blank. Thus no claim for accumulation u/s 11(la)/11(lb) was made in the return Therefore, there is no error in the order on this point.

6.3 I find from the item 9(vi) that the appellant had shown sum of Rs. 12,53,288/- towards "amount: accumulated or set apart for specified purposes" as per provision of section 11(2) and 11(5). The appellant was \ required to fall up the details in schedule-I. I find from the return of income that the appellant did not file the details in schedule-I. Therefore, I the claim for deduction could not have been allowed u/s 11(2) and 11(5). I Therefore, there is no mistake/error in the order u/s 143(1) as claimed by the \appellant. Thus, ground nos. 1 and 2 are dismissed.”

5. We have considered rival contentions and carefully gone through the orders of the authorities below and found from record that the Trust has alleged to file its return of income on 08 August 2014 [much before 30 November 2014, the due date for filing the return of income under Section 139(1) of the Act]. In response to the Notice dated 10 Sept. 2015 u/s. 139 (9) of the Act, the Trust filed revised return of income. In that return, against column against 9 (iv) (a) in Part B -TI of the return of income asking whether the option to accumulate under Section 11 (2) of the Act is exercised in writing before due date to the Assessing Officer, the Trust has stated "Y.

6. The aggregate amount decided to be accumulated was stated against 9 (vi) of Part B -TI by the Trust at Rs. 12,53,288/-, which comprises of accumulations: (i) under S.I (1) (a) - Rs. 6,92,032/-and (b) under S. 11(2)-Rs. 5,61,256/-. However, in the Intimation dated 02 Feb 2016, against Sr. No. 12 (vi), the CPC has recorded the claim of the Trust at that amount (Rs. 12,53,288/-) but has not extracted it in column "As per Computation ' under Section 143(1)" and kept it blank. The Trust made an application to the AO, under Section 154 of the Act, for rectification of the said Intimation vide letter dated 12 May 2016, filed on 16 May 2016. The said application is not disposed off by the AO till date. However, in the appeal filed before the CIT(A), CIT (A) has taken very narrow & technical stand (without considering full facts of the case) and has dismissed the appeal.

7. As per Section 11(2) of the Income-Tax Act, 1961, the amount accumulated or set apart is not to be included in total income of the Trust, if the conditions are satisfied. It was contention of Id. AR that the assessee Trust has duly furnished the required Form No.10 for the year under appeal to the AO on 07th July 2014. The due date for filing the return of income for the year under appeal was 30th November 2014. The Trust filed the return of income on 06 August 2014. Since the appellate Trust has not applied its entire income to the objects of the Trust and Trustees have passed a resolution to accumulate income under Section 11(1)(a) and also under section 11(2) of the Act. However, it appears that the CIT(A) has not properly appreciated the facts of the case and required information filed by assessee. In all fairness we set aside the order of CIT(A) and restore the matter back to the file of CIT(A) for deciding afresh on merit after giving due and reasonable opportunity of being heard to assessee.

8. In the result, appeal is allowed for statistical purposes.

Order pronounced in the open court on this 04/03/2020.

**Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER**

**Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER**

Mumbai; Dated 04/03/2020
Karuna Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

सत्यापित प्रति //True Copy//

(Asstt. Registrar)
ITAT, Mumbai