

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT**

**ITA NO. 6629/MUM/2018 : A.Y : 2014-15**

Mudra Financial Services Ltd., vs. ITO, Ward 10(2)(4), Mumbai.  
3<sup>rd</sup> floor, B-wing, Vaastu Darshan, (Respondent)  
Azad Road, Andheri (E),  
Mumbai 400 069.  
**PAN : AAACM4111B** (Appellant)

**Appellant by : Shri Prakash Jhunjunwala**  
**Respondent by : Shri Chaitanya Anjaria**

**Date of Hearing : 18/02/2020**  
**Date of Pronouncement : 17/06/2020**

**ORDER**

This appeal by the assessee is directed against order of learned CIT(A) dated 13.08.2018 and pertains to assessment year 2014-15.

2. The issue raised is that learned CIT(A) has erred in confirming the order of the Assessing Officer disallowing weighted deduction of Rs. 17,50,000/ claimed under Section 35(1)(ii) of the Income Tax Act, 1961 (in short 'the Act') at the rate of 175% of the donation made of Rs. 10,00,000/- on the ground that the same was not genuine transaction.

3. Brief facts of the case are that assessee is a non-banking financial company. During the course of assessment, the Assessing Officer noted that assessee has made a donation to M/s. School of Human Genetics and Population Health, hereinafter referred as SHGPH, of Rs. 10,00,000/- and claimed the aforesaid deduction. On the basis of information from search conducted at the premises of SHGPH by the Income Tax department, admission by the said concern of being engaged in bogus accommodation entry, order to that effect by the Income Tax Settlement Commission, and subsequent cancellation of the registration of the said concern, the authorities below denied the aforesaid claim of the assessee holding the transaction to be bogus.

4. Against the above order, assessee has filed appeal before the ITAT. I have heard both the parties and perused the records. Learned counsel of the assessee submitted that in identical circumstances for donations made to the same institution, in several decisions ITAT Mumbai and ITAT Kolkata have deleted the aforesaid disallowances on the ground that assessee has discharged its onus by giving evidence of the donation. That the subsequent cancellation of registration of the said Institute would not affect the eligibility of assessee for claiming the said deduction. The decisions of ITAT Mumbai referred in this regard are as under :-

- i) *Urnish Jewellers vs ACIT 2019(5) TMI 1323 - Mumbai ITAT;*
- ii) *Gujarat Agrochem Private Limited vs ACIT 2019(6) TMI 1048 - Mumbai ITAT;*
- iii) *Motilal Dayabhai Jhaveri vs ACIT 2019 (4) TMI 1615 - Mumbai ITAT*

on the other hand, learned Departmental Representative relied upon the orders of authorities below. He submitted that acceptance by the said Institute before the Income Tax authorities and the Settlement Commission of engaging into bogus transactions is ample proof that the orders of the authorities below are quite sustainable.

5. I have carefully considered the submissions. It is not disputed that identical facts, as in the present case, were also before the Tribunal in the decisions referred above. The Tribunal had deleted the disallowance on the ground that assessee cannot be held responsible for the subsequent admission by the said Institute, and cancellation of its registration. No contrary decision has been shown in this regard. Accordingly respectfully following the precedent as above, I set aside the orders of authorities below and direct that the disallowance in this regard should be deleted.

6. In the result, this appeal by the assessee stands allowed.

Order pronounced on 17<sup>th</sup> June, 2020 under Rule 34(4) of ITAT Rules.

Sd/-  
**(SHAMIM YAHYA)**  
**ACCOUNTANT MEMBER**

Mumbai, Date : 17<sup>th</sup> June, 2020

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Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "SMC" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar  
I.T.A.T, Mumbai