

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES "C", BANGALORE**

**Before Shri George George K, JM & Shri B.R.Baskaran, AM**

ITA No.721/Bang/2020 : Asst.Year 2016-2017

The Income Tax Officer (Exemption) Ward 2 Bengaluru.	v.	M/s.Meerabo Global Foundation, Vibgyor High 46/2, Vittasanda Village Begur Hobli, Bangalore South Taluk, Bengaluru – 560 068. <b>PAN : AADTM2730J.</b>
(Appellant)		(Respondent)

Appellant by : Sri.Pradeep Kumar, CIT-DR  
Respondent by : Sri.Satish Mody, Advocate

<b>Date of Hearing : 20.10.2021</b>	<b>Date of Pronouncement : 21.10.2021</b>
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**ORDER**

**Per George George K, JM**

This appeal at the instance of the Revenue is directed against CIT(A)'s order dated 16.09.2020. The relevant assessment year is 2016-2017.

2. The grounds raised read as follows:-

*“1. On facts and circumstances of the case, the CIT(A) has erred in allowing the claim of the assessee for carry forward of excess of expenditure over income.*

*2. On facts and circumstances of the case, the CIT(A) has erred in ignoring the fact that there is no express provision in the Income Tax Act, 1961 to allow the carry forward of expenditure in case of Trusts registered u/s 12AA of the Income Tax Act, 1961.*

*3. On facts and circumstances of the case, the CIT(A) has erred in not appreciating the fact that this would have the effect of granting double benefit to the assessee.*

4. *On facts and circumstances of the case, the CIT(A) has erred in allowing the assessee for accumulation of income u/s 11(1)(a) or Corpus donation u/s 11(1)(d) in earlier years / current years as well as to exempt income u/s 10(34) and then as application of income u/s 11(1)(a) in subsequent years which is legally not permissible.*

5. *Any other ground that may be submitted before the Hon'ble ITAT."*

3. The brief facts of the case are as follows:

The assessee trust was granted registration u/s 12A of the I.T.Act, 1961. For the relevant assessment year, return of income was filed on 15.10.2016. The assessment u/s 143(3) of the I.T.Act was completed vide order dated 28.12.2018, wherein the A.O. disallowed carry forward of excess expenditure.

4. Aggrieved, the assessee preferred an appeal to the first appellate authority. The CIT(A) allowed the appeal of the assessee. The CIT(A) held that the assessee is entitled to carry forward excess expenditure. The CIT(A) followed the judgment of the Hon'ble jurisdictional High Court in the case of Pr.CIT (Exemption) v. Manipal Academy of Higher Education, reported in (2019) 415 ITR 361 (Kar.).

5. Aggrieved, the Revenue has filed this appeal before the Tribunal. The learned Departmental Representative relied on the assessment order and the grounds raised.

6. The learned AR, on the other hand, submitted that the issue in question is squarely covered by the judgment of the Hon'ble jurisdictional High Court in the case of Pr.CIT

(Exemption) v. Agastya International Foundation reported in (2019) 417 ITR 539 (Kar.) and the judgment of the Hon'ble Apex Court in the case of CIT (Exemption) v. Subros Educational Society reported in (2018) 303 CTR 1 (SC).

7. We have heard rival submissions and perused the material on record. The solitary issue raised for our adjudication is whether the assessee is entitled to carry forward excess expenditure. The issue raised is no longer *res integra*. The Hon'ble jurisdictional High Court in the case of Pr.CIT (Exemption) v. Agastya International Foundation (supra) by following the earlier judgment of the Hon'ble High Court in the case of CIT (Exemption) v. Ohio University Christ College reported in (2018) 408 ITR 352 (Kar.), had held as under:-

*“Income derived from trust property has to be computed on commercial principles and if commercial principles are applied, then adjustment of expenses incurred by the trust for charitable and religious purposes in the earlier years against the income earned by the trust in the subsequent year will have to be regarded as application of income of the trust to charitable and religious purposes in the subsequent year in which adjustment is made having regard to the benevolent provisions contained in section 11 of the Act and such adjustment will have to be excluded from the income of the trust under section 11(1)(a).”*

7.1 A similar view has been held by the Hon'ble Apex Court in the case of CIT (Exemption) v. Subros Educational Society (supra). In view of the above judicial pronouncements, we hold that the CIT(A) is justified in allowing carry forward excess expenditure. Therefore, we uphold the CIT(A)'s order as correct and in accordance with law.

8. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on this 21<sup>st</sup> day of October, 2021.

**Sd/-**  
**(B.R.Baskaran)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(George George K)**  
**JUDICIAL MEMBER**

Bangalore; Dated : 21<sup>st</sup> October, 2021.  
Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)- 14, Bangalore.
4. The CIT (Exemption), Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore