

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A”BENCH: BANGALORE**

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT  
AND  
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.1268/Bang/2019
Assessment Year: 2014-15

M/s. Cutchi Memon Union 276, Kamavari Road Sivayan Garden Bengaluru 560 042  <b>PAN NO :AAATT4202A</b>	<b>Vs.</b>	ITO ((Exemptions) Ward-1 Bengaluru
<b>APPELLANT</b>		<b>RESPONDENT</b>

ITA No.1751/Bang/2019
Assessment Year: 2014-15

ITO ((Exemptions) Ward-1 Bengaluru  <b>APPELLANT</b>	<b>Vs.</b>	M/s. Cutchi Memon Union Bengaluru 560 042  <b>RESPONDENT</b>
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<b>Appellant by</b>	:	Shri Ashok A Kulkarni, A.R.
<b>Respondent by</b>	:	Shri Sankar Ganesh K., D.R.

Date of Hearing	:	16.02.2022
Date of Pronouncement	:	21.02.2022

**ORDER**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER:**

These cross appeals are directed against the order dated 28.3.2019 passed by Ld. CIT(A)-14, Bengaluru and they relate to the assessment year 2014-15.

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2. At the time of hearing, both the parties submitted that the tax effect involved in the appeal filed by the revenue is less than the monetary limit of Rs.50 lakhs prescribed by the CBDT in circular no.17/2019 dated 8.8.2019. Accordingly, the revenue is precluded from pursuing this appeal. Accordingly, appeal of the revenue is dismissed in limine.

3. We shall now take up the appeal filed by the assessee. The assessee is a charitable trust registered u/s 12A of the Income-tax Act,1961 ['the Act' for short]. It filed its return of income for the year under consideration on 24.9.2014 declaring nil income after claiming exemption u/s 11 of the Act. The A.O. completed the assessment determining the taxable surplus of the assessee at Rs.1,10,43,644/-.

4. The assessee challenged the assessment order by filing appeal before Ld. CIT(A), wherein the assessee put up a new claim for deduction of Rs.2 crores, being the amount donated by it to another charitable organization having similar objects. The Ld. CIT(A) took the view that the objects clause of the assessee society does not contain the object of giving donation to other organization. Accordingly, he took the view that giving donation to other organization cannot be deemed as utilization of funds for the aims and objectives of the assessee. Accordingly, he rejected the claim of the assessee. Aggrieved by the above said decision of Ld. CIT(A), the assessee has filed this appeal before us.

5. We heard the parties and perused the record. The Ld. D.R. submitted that the assessee did not make this claim before the A.O. and made the claim for the first time before Ld. CIT(A). Accordingly, he prayed that this issue may be restored to the file of AO for

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examining it afresh. On the contrary, the Ld. A.R. submitted that the assessee has put up the claim before the Ld. CIT(A) and the first appellate authority has rendered his decision on merits. Accordingly, the Ld. A.R. submitted that the Tribunal can examine this issue. When it was pointed out by the bench that the A.O. did not have an opportunity to examine this issue and further the Ld. CIT(A) has also not obtained any remand report from A.O. and hence in the fitness of things, it should go back to the AO, the Ld. A.R. agreed to the same.

6. In view of the above, we set aside the order passed by Ld. CIT(A) on this issue and restore the same to the file of the A.O. for examining it afresh. We also make it clear that the A.O. should examine the issue without being influenced by the decision rendered by Ld. CIT(A) on this issue. After affording adequate opportunity of being heard to the assessee, the A.O. may take appropriate decision in accordance with law.

7. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes and the appeal of the revenue is dismissed.

Order pronounced in the open court on 21<sup>st</sup> Feb, 2022.

**Sd/-**  
**(N.V. Vasudevan)**  
**Vice President**

**Sd/-**  
**(B.R. Baskaran)**  
**Accountant Member**

Bangalore,  
Dated 21<sup>st</sup> Feb, 2022.  
VG/SPS

**Copy to:**

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

By order

Asst. Registrar, ITAT, Bangalore.