



IN THE INCOME TAX APPELLATE TRIBUNAL 'A' BENCH, PUNE

**BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM
AND DR. DIPAK P. RIPOTE, AM**

ITA No. 985/PUN/2019 : Assessment Year : 2009-10

The Dy. CIT Central Cir. 1 (3) Pune.

:Appellant

Vs.

M/s. Chaudhary Attarsingh Yadav
Memorial Educational Trust,
Pride Plaza, 1st floor,
Near Ambedkar Chowk, Pimpri,
PUNE – 411 018
PAN: AAAAC2210P

: Respondent

Appellant by : None

Respondent by : Shri Arvind Desai

Date of Hearing : 29-08-2022

Date of Pronouncement : 30-08-2022

ORDER

PER PARTHA SARATHI CHAUDHURY, JM :

This appeal preferred by the Revenue emanates from the order of the Id. CIT(A)-13, Pune dated 25-04-2019 for A.Y. 2009-10 as per the following grounds of appeal.

1. *Whether on the facts and circumstances of the case and in law, the Id. CIT(A) was correct in granting exemption u/s 11 of the Act, without appreciating the fact that the ITAT Pune order cancelling the order of the CIT (Central) Pune u/s 12AA(3) has no connection with the violation made by the assessee u/s 13 of the Act.*
2. *Whether on the facts of the case and in law the Id. CIT(A) was correct in deleting the disallowance of depreciation made by the AO.*
3. *Whether on the fact of the case and in law the Id. CIT(A) was correct in allowing relief to the assessee on the basis of order u/s 254 of the Act dt. 22-12-2015 passed by the AO, which apparently was not a valid order, as no appeal was decided by Hon'ble ITAT against the assessment order in question.*

2. At the time of hearing, none appeared for the assessee nor any adjournment petition was filed, neither there was any written submissions filed by the assessee. The notice, as per the records, was served and received by



the assessee, still there was no compliance from the assessee-trust. In this revenue's appeal, the submissions of the Id. D.R are recorded and the relevant materials/documents perused along with orders of the subordinate authorities placed on record.

3. At the very outset, the Id. D.R submitted that in the assessment order, the A.O has relied on assessment year for A.Y. 2006-07 in adjudicating the case of the assessee for the present assessment year. That the matter for A.Y. 2006-07 had, in fact, travelled before the Pune Tribunal in ITA No. 929 and 930/PUN/2019 for A.Y. 2005-06 and 2006-07, order dated 28-07-2022 . The Id. D.R further submitted that as per the decision of the Tribunal, the matter was remanded back to the file of the Id. CIT(A) for fresh adjudication regarding merits of the additions after giving an opportunity of being heard to the assessee. It is the submission of the Id. D.R that since the A.O has relied on A.Y. 2006-07 and when the matter for A.Y. 2006-07 has been remanded back to the file of the Id. CIT(A) for fresh adjudication by the Tribunal (supra), therefore, in the interest of justice, the matter for the present assessment year be also remanded back to the file of the Id. CIT(A) to re-adjudicate in the light of the judgment in assessee's own case by the Pune Tribunal. The Id. D.R therefore prayed the matter be remanded back to the file of the Id. CIT(A) following the directions of the Tribunal in assessee's own case for A.Y. 2006-07.

4. Having heard the Id. D.R it is evident from para 3 onwards of order for the present assessment year that the A.O has relied on the assessment year 2006-07 by observing as follows:

"3. The assessee is running Education Institutions and there was search and seizure operation carried out at the premises of the assessee on 20-7-2005. The assessment for A.Y. 2006-07 is completed by my predecessor determining total income at Rs. 3,41,13,660/- only. Briefly stated, the assessee was denied the



status of charitable trust and various financial transactions were found to attract taxation. The assessment order for A.Y. 2006-07 runs to about 41 pages and mentions in detail all the illegal activities and consequences under the IT Act. Till today, the appeal filed by the assessee is pending. During the course of present assessment proceedings, I find that the irregularities continued in the assessment year 2007-08 and deserve the same treatment.

There is one more development in this group of cases in the form of ITAT Pune's order cancelling the order of the CIT (Central), Pune u/s 12AA(3) of the I.T. Act, 1961. The assessee, vide its written submission received in this office on 06-12-2010 has requested to allow exemption u/s 11 in view of the order of the ITAT Pune. In this connection, it is to be mentioned that two issues are different. The ITAT Pune's order cancelling the order of the CIT (Central), Pune, has no connection with the violation u/s 13 as also mentioned in the assessment order for assessment year 2006-07. Hence, status is taken as AOP for the reasons mentioned in the assessment order for assessment year 2006-07 and 2007-08."

5. We also find the submissions of the Id. D.R to be correct that for A.Y. 2006-07 the matter had travelled to the Tribunal and vide its order dated 28-07-2022, Pune Tribunal has remanded the matter to the file of the CIT(A) by observing as follows:

"6.1 Also, it is an admitted fact by the assessee, that Id.CIT(Central) had given opportunity to the assessee before Special Audit. Therefore, facts of the case under consideration are identical to the facts of the case of Rajendrasingh Yadav Vs. ITO(supra), hence, we respectfully follow the ITAT Pune Bench decision in the case of Shri Rajendrasingh Yadav(supra). Therefore, we hold that the assessment order passed under section 143(3) r.w.s 153A of the Act is legally valid. Therefore, grounds of appeal raised by the Revenue are allowed. However, since the Id.CIT(A) has not decided the others grounds of the assessee which were regarding merits of the additions, we direct the Id.CIT(A) to decide the other grounds of the assessee regarding merits of the additions after giving opportunity of being heard to the assessee.

7. In the result, appeal of the Revenue is allowed.

ITA No.930/PUN/2019 for A.Y. 2006-07:

8. As we have noted above that the Revenue has raised identical ground of appeal and the facts of this appeal under consideration are almost identical to the facts for the A.Y. 2005-06, therefore, our decision in ITA No.929/PUN/2019 will apply mutatis-mutandis to the appeal number in ITA No.930/PUN/2019 for A.Y. 2006-07. Accordingly, grounds of appeal raised by the Revenue are allowed."

6. That following our own order in assessee's own case for A.Y. 2006-07 (supra), we remand this matter to the file of the Id. CIT(A) to re-adjudicate the ground in the light of the decision taken for A.Y. 2006-07 in assessee's own case while complying with the principles of natural justice.

7. In the result, appeal of the Revenue is allowed for statistical purposes.



ITA 985/PUN/2019
Chaudhary Attarsing Yadav
A.Y. 2009-10

Order pronounced in the open Court on this 30th August 2022.

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER
Pune; Dated, this 30th day of August 2022
Ankam

sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The Pr. CCIT, Pune.
4. The CIT(A)-13, Pune
5. The D.R. ITAT 'A' Bench Pune.
6. Guard File

BY ORDER,

/// TRUE COPY ///

Sr. Private Secretary
ITAT, Pune



		Date	
1	Draft dictated on	29-08-2022	Sr.PS
2	Draft placed before author	30-08-2022	Sr.PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on	30-8-2022	Sr.PS/PS
7	Date of uploading of order	30-08-2022	Sr.PS/PS
8	File sent to Bench Clerk	<u>30-08-2022</u>	Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		