

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1408/PUN/2019  
निर्धारण वर्ष / Assessment Year: 2015-16

Maharashtra Education Society (MES), MES Bhavan, 1214-1215, Sadashiv Peth, Pune-411030. PAN : AAATM1730E	Vs.	DCIT (Exemption), Pune.
Appellant		Respondent

आयकर अपील सं. / ITA No.1577/PUN/2019  
निर्धारण वर्ष / Assessment Year: 2015-16

DCIT (Exemption), Pune.	Vs.	Maharashtra Education Society (MES), MES Bhavan, 1214-1215, Sadashiv Peth, Pune-411030. PAN : AAATM1730E
Appellant		Respondent

Assessee by : Shri Nikhil S. Pathak  
Revenue by : Shri Ramnath P. Murkunde  
Date of hearing : 24.11.2022  
Date of pronouncement : 05.12.2022

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

These are the cross appeals filed by the assessee as well as by the Revenue directed against the order of Id. Commissioner of Income Tax (Appeals)- 10, Pune ['the CIT(A)'] dated 16.07.2019 for the assessment year 2015-16.

**ITA No.1408/PUN/2019 – By Assessee :**

2. During course of hearing, the ld. AR did not press grounds of appeal. Therefore, we dismiss the appeal of the assessee as not pressed.

3. In the result, the appeal of the assessee stands dismissed.

**ITA No.1577/PUN/2019 – By Revenue :**

4. Briefly, the facts of the case are that the respondent-assessee is a society registered under the Bombay Public Trust Act, 1950 and also registered under the Society Registration Act. It is formed for the purpose of running educational services. The Return of Income for the assessment year 2015-16 was filed on 29.09.2015 declaring Rs.Nil income. Against the said return of income, the assessment was completed by the Dy. Commissioner of Income Tax, (Exemptions) Circle Pune ('the Assessing Officer') vide order dated 22.12.2017 passed u/s 143(3) of the Income Tax Act, 1961 ('the Act') allowing excess amount spent over income rendering in deficit of Rs.7,46,73,290/-. While doing so, the Assessing Officer had not allowed the advance written off in the books of account of Rs.9,75,509/- as application of income.

5. Being aggrieved by the above action of the Assessing Officer, an appeal was filed before the ld. CIT(A) contenting that the

Assessing Officer ought to have allowed 15% of the gross receipts as deduction while computing the deficit for the year under consideration placing reliance on the decision of the Hon'ble Supreme Court in the case of CIT vs. Programme for Community Organisation 248 ITR 1 (SC). It is also contended before the ld. CIT(A) that the Assessing Officer ought to have allowed advance written off of Rs.9,75,509/- as application of income. The ld. CIT(A) while dismissing the claim of the advance written off of Rs.9,75,509/- as application of income, however, directed the Assessing Officer to allow 15% of the gross receipts as standard deduction while determining amount of deficit i.e. excess of expenditure over income.

6. Being aggrieved by the above decision of the ld. CIT(A), the Revenue is in appeal before us in the present appeal.

7. It is contended that in the absence of surplus money, the question of accumulation for future use does not arise and, therefore, the ld. CIT(A) fell in serious error in holding that the respondent-assessee is entitled to carry forward 15% of gross receipts for future application.

8. On the other hand, ld. AR submits that even in the absence of any excess of income or expenditure for the year under

consideration still an assessee trust is entitled to accumulate 15% of gross receipts for future application placing reliance on the decision of the Co-ordinate Bench of the Tribunal in the case of Maharshi Karve Stree Shikshan Samstha vs. ITO vide ITA No.1715/PUN/2016 for A.Y. 2008-09 order dated 12.12.2018.

9. We heard the rival submissions and perused the material on record. The issue in the present appeal relates to whether or not the assessee trust enjoying exemption u/s 12AA of the Act can accumulate 15% of gross receipts for future as irrespective of fact that the respondent-assessee trust had applied entire income for charitable purposes. On mere perusal of the assessment order, it would reveal that the respondent-assessee had spent the excess of income or applied the excess of income for charitable purposes over its receipts which mean them remain no unspent amount. The provisions of section 11(1)(a) allow 15% of income for future application for charitable purposes, in other words, if the trust spent 85% or more of its income in the year for its objects, the whole of its income will be exempt. It pre-supposes existence of unspent gross receipts or income. In the absence of any unspent amount, the question of accumulation does not arise and the provisions of section 11(1)(a) does not provide for 15% of gross receipts as

standards deduction. The decision of the Hon'ble Supreme Court in the case of Programme for Community Organisation (supra) is not authority for the proposition that even in the absence of unspent amount, 15% of gross receipts is to be allowed as standard deduction. Thus, the Id. CIT(A) had fell in serious error in allowing the benefit of 15% of gross receipts to be accumulated for future application of income. Therefore, the order of the Id. CIT(A) is reversed and we restore the order of the Assessing Officer.

10. In the result, the appeal filed by the Revenue stands allowed.

11. To sum up, the appeal filed by the assessee stands dismissed and the appeal of the Revenue stands allowed.

Order pronounced on this 05<sup>th</sup> day of December, 2022.

**Sd/-**  
**(PARTHA SARATHI CHAUDHURY)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 05<sup>th</sup> December, 2022.

*Sujeet*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-10, Pune.
4. The CIT (Exemptions), Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.