

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
(Conducted through E-Court at Ahmedabad)**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.218/Rjt/2018
(Assessment Year: 2006-07)

Deendayal Port Trust, (Erstwhile Kandla Port Trust), A.O. Building, Post Box No. 50, Tagore Road, Gandhidham-Kutch	Vs.	Additional Commissioner of Income Tax, Gandhidham Range, Gandhidham
[PAN No.AAALK0046N]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Manish Shah, A.R.
Respondent by:	Shri Shramdeep Sinha, CIT DR

Date of Hearing	19.07.2023
Date of Pronouncement	26.07.2023

ORDER

PER BENCH:

This appeal has been filed by the assessee against the order passed by the Ld. CIT(Appeals)-3, Rajkot in Appeal No. CIT(A)-3/10591/16-17 vide order dated 23.03.2018 passed for Assessment Year 2006-07.

2. The assessee has taken the following grounds of appeals:-

“1. The CIT(A) erred in law in upholding the action of assessing officer of rectifying the assessment order u/s 154 on issue of disallowance of entire brought forward loss of AY 2005-06 for which no notice was issued to assessee u/s 154 of the IT Act, 1961.

- 2 -

2. *The CIT(A) erred in law in holding that assessee is not entitled to setting of brought forward losses of AY 2005-06 as income of assessee is exempt u/s 11 of the IT Act, 1961.*

3. *The CIT(A) erred in law in upholding the action of assessing officer of rectifying the assessment order u/s.154 on a debatable issue of entitlement of setting off the brought forward losses in case of entities whose income is exempt u/s 11 of the LT. Act. 1961.*

4. *The CIT(A) erred in law in upholding the action of assessing officer of disallowing the entire brought forward losses of AY 2005-06 while determining the income for AY 2006-07 without disturbing the assessed loss of AY 2005-06.*

5. *In any case, the CIT(A) erred in upholding the order of the Assessing Officer under section 154 which not only attempts to rectify the debatable error but also tries to modify the assessment order on issues which were not part of section 154 notice.*

The appellant reserves its right to add, amend, alter or modify any of the grounds stated hereinabove either before or at the time of hearing.”

3. Before us, the counsel for the assessee submitted that he shall not be pressing for the instant appeal in view of the appeal effect order dated 07-05-2019 passed by the Deputy Commissioner of Income Tax (Exemptions), Circle-2, Ahmedabad, after which the entire income of the

assessee trust has been held as exempted after set off of brought forward losses for Assessment Year 2005-06. Accordingly, in the light of the aforesaid order, the counsel for the assessee has submitted that he shall not be pressing for the present appeal. The Ld. DR has also not objected to the request for withdrawal of the present appeal by the assessee.

4. It would be useful to reproduce the relevant extracts of the Appeal Effect Order dated 07-05-2019, for reference:-

“As per ROI of A.Y. 2006-07, the assessee has claimed set off b/f loss of Rs. 1,34,14,37,720/- pertaining to A.Y. 2005-06. Further, as per the appeal effect order dated 06-05-2019 w.r.t. ITAT’s order vide ITA No. 679/Rjt/2014 and 674/Rjt/2014 dtd. 08.06.2018, the total income of the assessee for A.. 2005-06, is determined of (-) Rs.106,98,19,340/- which is actually eligible to set off against the income of A.Y. 2006-07 instead of loss of Rs. 1,34,14,37,720/- as claimed in return of A.Y. 2006-07 by the assessee. Further, Ld. CIT(A)-II, Rajkot vide order No. CIT(A0-II / Rjt/0056/13-14 dated 12.09.2014 pertaining to A.Y. 2006-07, has held that assessee is eligible for exemption u/s 11 & 12 of the Act and this stand of Ld. CIT(A) is also confirmed by the Hon’ble ITAT’s order vide TIA No. 680/Rjt/2014 and 675/Rjt/2014 dtd. 08.06.2018. Hence, the entire income of the assessee trust has been held as exempted after set off b/f loss of A.Y. 2005-06 as discussed above.”

- 4 -

5. In view of the above, the appeal of the assessee is dismissed as withdrawn.

6. In the result, the appeal of the assessee is dismissed as withdrawn.

This Order pronounced in Open Court on	26/07/2023
---	-------------------

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER
Ahmedabad; Dated 26/07/2023

TANMAY, Sr. PS

TRUE COPY

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट / DR, ITAT, Rajkot
6. गार्ड फाईल / Guard file.

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, राजकोट / ITAT, Rajkot