

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.15/PUN/2015

निर्धारण वर्ष / Assessment Year : 2007-08

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| ACIT, Central Circle-2(2), Pune | Vs. | Sinhagad Technical Education Society, S.No.44/1, Vadgaon (Budruk), Off Sinhagad Road, Pune 411 041 PAN : AABTS9900Q |
| Appellant | | Respondent |

Assessee by Shri Suhas Bora
Revenue by Shri Keyur Patel

Date of hearing 06-09-2023
Date of pronouncement 07-09-2023

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the Revenue is directed against the order passed by the Commissioner of income-tax (Central), Pune on 31-10-2014 in relation to the assessment year 2007-08.

2. It is a recalled matter for a fresh disposal of Ground No.6 taken by the Revenue. The earlier order passed by the bench on 17-10-2018 was subsequently recalled vide order dt.12-07-2023 in M.A.No.27/PUN/2021.

3. Ground No.6 raised by the Revenue reads as under :

“On the facts and in the circumstances of the case, the ld. CIT(A) erred in allowing the amounts paid to the various trusts amounting to Rs.2,04,00,000/-, wherein the trustee of the assessee trust are also the

trustees and hence the assessee has contravened the provisions of section 13(1)(c). The Id. CIT(A) has wrongly relied upon the decision of Id.CIT(A) in assessee's own case for A.Y. 2003-04 by not appreciating the fact that the addition made by the assessing officer is on a different footing."

4. Briefly, the facts concerning this ground are that the assessee trust gave advances of Rs.2,12,85,506/- to the other trusts as under :

Savitribai Phule Shikshan Prasarak Mandal – Rs.1,87,60,506/-
Shri Yeshwantrao Chavan Shikshan Prasarak Mandal – Rs.17,25,000/-
Shrinath Shikshan Prasarak Mandal – Rs.8,00,000/-

5. The Assessing Officer (AO) observed that the trustees of the assessee-trust were trustees in two of these three trusts, viz., Savitribai Phule Shikshan Prasarak Mandal and Shrinath Shikshan Prasarak Mandal. He, therefore, held the advancing of loans as a case of violation of section 13(1)(c) of the Act. The matter was assailed by the assessee before the Id. CIT(A), who allowed the ground of appeal by observing that similar issue was decided in favour of the assessee by the Id. CIT(A) in assessee's own case for the A.Y. 2003-04 holding that the advances to the charitable entities with similar objects amounted to application of income. Thereafter, the Tribunal passed the order deciding the issue against the Revenue by making reference to certain paras of the order of the Id. CIT(A). The Department filed Miscellaneous Application contending that the reference to such paras was incorrect and the Tribunal ought to have referred to certain other correct paras. That is how, the

Tribunal recalled its decision on Ground No.6 for fresh adjudication.

6. We have heard the rival submissions and gone through the relevant material on record. It is seen that Ground No.6 of the Revenue's appeal deals with certain amounts paid by the assessee trust to other trusts where the trustees were also interested, which in the opinion of the AO, led to contravention of provisions of section 13(1)(c) of the Act. Relevant discussion has been made by the AO in para 6 of his order referring to three advances made to the tune of Rs.2.12 crore and odd. The ld. AR submitted that though the AO made a reference to invocation of section 13(1)(c) of the Act *qua* the advances given to the other trusts, but eventually did not make any addition on that score. It was further submitted that this issue was challenged before the ld. CIT(A) for expunging such irrelevant observations made without any addition. The ld. DR, on a perusal of the computation of total income in the assessment order, also accepted that the AO did not make any addition of Rs.2.12 crore towards the advances to the three trusts. In that view of the matter, it becomes clear that the AO, even though discussed the issue in the body of the assessment order about the alleged contravention of section 13(1)(c) but ended up without making any specific addition in this regard. Consequently, there was no reason either for the

assessee to raise this issue before the Id. CIT(A) or the Id. first appellate authority to pass an order thereon. In view of the fact that the AO did not make any addition on this score, we are satisfied that the ground taken by the assessee before the Id. CIT(A) and consequently by the Revenue before the Tribunal did not require any adjudication. Consequently, the ground of the Revenue is dismissed as infructuous. The order passed u/s.254(1) should be read in the light of the above observations.

7. In the result, the appeal is partly allowed.

Order pronounced in the Open Court on 07th September, 2023.

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| Sd/- (PARTHA SARATHI CHAUDHURY) JUDICIAL MEMBER | Sd/- (R.S.SYAL) VICE PRESIDENT |
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पुणे Pune; दिनांक Dated : 07th September, 2023
सतीश

आदेश की प्रतिलिपि □ प्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The respondent
3. The CIT (Central), Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

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

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| 2. | Draft placed before author | 06-09-2023 | Sr.PS |
| 3. | Draft proposed & placed before the second member | | JM |
| 4. | Draft discussed/approved by Second Member. | | JM |
| 5. | Approved Draft comes to the Sr.PS/PS | | Sr.PS |
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