

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, AHMEDABAD**

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

I.T.A. No. 1147/Ahd/2018
(Assessment Year: 2014-15)

Dudhsagar Research & Development Association, C/o. Dudhsagar Dairy, Highway, Mehsana-384002	Vs.	Assistant Commissioner of Income Tax (Exemption), Circle-1, Ahmedabad
[PAN No.AAATD1312J]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Bandish Soparkar & Shri Parin Shah, A.Rs.
Respondent by:	Shri Sudhendu Das, CIT D.R.
Date of Hearing	11.01.2024
Date of Pronouncement	17.01.2024

ORDER

PER SIDDHARTHA NAUTIYAL, JM:

This appeal has been filed by the assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals)-7, (in short “Ld. CIT(A)”), Ahmedabad in Appeal No. CIT(A)-7/138/16-17 vide order dated 28.02.2018 passed for Assessment Year 2014-15.

2. The brief facts in relation to this case are that the ITAT vide order dated 11.10.2022 in ITA No. 1147/AHD/2018 had held that in view of assessee’s facts, the assessee is not eligible for claim of deduction under Section 11(1)(d) of the Act. Subsequently, the assessee filed Miscellaneous Application, in which the assessee had submitted that the assessee had raised an additional ground of appeal that in case it is held that the assessee is not eligible for deduction under Section 11(1)(d) of the Act and the receipts are treated as

- 2 -

revenue receipts in the hands of the assessee, then, in the alternative, the assessee is eligible for deduction under Sections 11 and 12 of the Act. The ITAT recalled the order to hear the matter afresh to the limited extent of additional ground of appeal raised by the assessee.

3. The Additional ground raised by the assessee is reproduced for ready reference:

“1. Both the lower authorities ought to have granted benefits of Section 11 and 12 as corpus donation received from members are treated as revenue receipts.

Appellant craves leave to add, amend, alter, change, delete and edit the above ground of appeal before or at the time of hearing of the appeal.”

4. Before us, the counsel for the assessee submitted that in the event the corpus donation is treated as “revenue receipts” in the hands of the assessee trust, then the benefits of Sections 11 and 12 of the Act should be available to the assessee. We find merit in the contention of the assessee that since the corpus donation is to be treated as “revenue receipts”, then the said receipts are liable to be governed by the provisions of Sections 11 and 12 of the Act and the assessee is eligible for deduction under the aforesaid provisions, in accordance with law.

5. In the result, the appeal of the assessee is allowed with respect to this additional ground of appeal.

This Order pronounced in Open Court on	17/01/2024
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Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER
Ahmedabad; Dated 17/01/2024
TANMAY, Sr. PS

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

TRUE COPY

- 3 -

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, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad