

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "B", MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER AND  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER

1. ITA No. 755/Mum/2023 (A.Y.2015-16)
2. ITA No. 754/Mum/2023 (A.Y.2016-17)
3. ITA No. 756/Mum/2023 (A.Y.2017-18)

**National Institute of Bank Management**

S-14, Pemino, Alta mount Road,

Mumbai-400 026

**PAN: AAATNP0040P**

..... Appellant

Vs.

**DCIT (Exem.) – 2(1)**

Piramal Chambers,

Lalbaug Parel

Mumbai-400 012

..... Respondent

4. ITA No. 1035/Mum/2023 (A.Y.2015-16)
5. ITA No. 1036/Mum/2023 (A.Y.2016-17)
6. ITA No. 1037/Mum/2023 (A.Y.2017-18)

**DCIT (Exem.) – 2(1)**

Piramal Chambers,

Lalbaug Parel

Mumbai-400 012

..... Appellant

Vs.

**National Institute of Bank Management**

S-14, Pemino, Alta mount Road,

Mumbai-400 026

**PAN: AAATNP0040P**

..... Respondent

Appellant by : Shri S. Ananthan & Ms. Lalitha  
Rameswaran  
Respondent by : Shri C. T. Mathews, Sr. AR  
  
Date of hearing : 22/06/2023  
Date of pronouncement : 05/07/2023

### **ORDER**

#### **PER GAGAN GOYAL, A.M:**

These appeals by assessee and cross appeals by revenue are directed against the order of National Faceless Appeal Centre (for short “NFAC”) of even date 31.01.2023 u/s. 250 of the Income Tax Act, 1961 (in short ‘the Act’) for A.Y. 2015-16, 2016-17 and 2017-18 respectively.

2. The assessee has raised the following grounds of appeal in ITA No. 755/Mum/2023 for AY 2015-16:-

*1. The order of the learned Commissioner of Income Tax (Appeals) is bad in law and against the facts of the case.*

*2. The learned Commissioner of Income Tax (Appeals) erred in not granting the exemption u/s. 10(23C) of the Act holding that the appellant didn't have approval u/s. 10(23C)*

*2.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate that appellant was holding valid registration u/s. 10(23C)*

*2.2. The learned Commissioner of Income Tax (Appeals) failed to appreciate that the appellant was an institution notified u/s. 10(23C)(iv) vide Notification*

*No. 318/2006 dated 14/11 / 2006 and the appellant had duly complied with the conditions mentioned in the notification granting exemption u/s. 10(23C)(iv)*

*2.3. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the income of the appellant was exempt u/s. 10(23C)*

*3. The learned Commissioner of Income Tax (Appeals) erred in not adjudicating the ground relating to alternate assessment made by the Assessing Officer.*

*3.1. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) failed to appreciate that computation of total income at Rs. 6,63,69,833/- on an alternate basis if the appellant is allowed exemption u/s. 11 of the Act made by the learned Assessing Officer is not sustainable.*

*3.2. The learned Commissioner of Income Tax (Appeals) failed to appreciate that the contribution of Rs. 1, 53, 41,974/- received from member banks cannot be treated as income.*

*3.3. The learned Commissioner of Income Tax (Appeals) failed to appreciate that the interest of Rs. 22,850/- received from the Staff cannot be treated as income.*

*3.3.1. without prejudice to the above, the learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the appellant had already offered this amount in the computation.*

*3.4. The learned Commissioner of Income Tax (Appeals) erred in not allowing depreciation as allowable expenditure.*

*3.4.1. The learned Commissioner of Income Tax (Appeals) erred in not allowing accumulation of income u/s. 11(2) of the Act.*

*4. The learned Commissioner of Income Tax (Appeals) erred in not adjudicating the ground relating to treating capital receipts as income.*

*4.1. Without prejudice to the above, the learned Assessing Officer erred in treating the capital receipts as an income.*

*5. The lower authorities erred in not granting the TDS credit in full.*

3. The brief facts of the case are that assessee is an organisation involved in education activities in the form of training, research and consultancy in the field of banking and finance in India. Assessee filed its return of income on 30.09.2015 alongwith audited accounts at Rs. NIL. Assessee duly submitted audit report in Form No. 10BB alongwith return of income. The case of the assessee was selected for scrutiny and accordingly, statutory notices were issued.

4. Assessee is duly registered for the purposes of section 12A vide certificate no. BMY/INS/N (a)/9/73-74 dated 20.02.1974. Formation of the assessee was done as society registered under the Societies Registration Act (XXI) of 1860 on 24.09.1969 and is also registered u/s. 80G of the IT Act. It is further noted that assessee is a notified institution u/s. 10(23C) (iv) vide notification no. 318/2006 dated 14.11.2006. Assessee is an institution established by the Govt. of India through the Reserve Bank of India. The assessee society has its members, the Reserve Bank of India (RBI), State Bank of India (SBI), other nationalized banks, foreign banks, private banks and cooperative banks operating in India. Assessee is being managed and controlled by the Govt. of India through RBI.

5. During the assessment proceedings, AO neither gave the benefit of section 11 nor section 10(23C) (iv) of the Act and assessed the total income at Rs. 5, 87,

98,460/-. Assessee being aggrieved with this order of AO preferred an appeal before the Ld. CIT (A). Ld. CIT (A) in his order allowed the appeal of the assessee following the order of Coordinate Bench in ITA Nos. 2913 & 2914/MUM/2016 : A.Ys : 2010-11 & 2011-12, ITA NO. 2915/MUM/2016: A.Y: 2012-13, ITA NO. 2506/MUM/2014: A.Y: 2009-10, CO NO. 182/MUM/2015: A.Y: 2009-10 and ITA No. 4238 & 4239/Mum/2019 for AY 2013-14 & 2014-15 and allowed the claim of the assessee with reference to exemption u/s. 11. In his order, Ld. CIT (A) did not to adjudicate the issue relating to exemption u/s. 10(23C) (iv).

6. We have gone through the order of AO, order of the Ld. CIT (A) and the orders of the Coordinate Bench for the AYs mentioned (supra). In earlier orders of the coordinate bench, they decided the issue in favour of assessee as far as claim of exemptions u/s. 11 is concerned. Coordinate bench has rightly observed that once the benefit of section 11 has been granted the issue relating to exemption u/s. 10(23C) (iv) is academic in nature as either of the benefit can be given. As there is no change in the operations of the assessee alongwith revenue model and Ld. DR is not able to point out any difference in the facts as discussed earlier vis-a-vis the years under consideration before us. Hence, respectfully following the earlier decision of Coordinate Bench mentioned (supra), we also confirm the claim of the assessee u/s. 11. In view of this, ground no. 2 raised by the assessee became academic and requires no adjudication from us, hence the same is **dismissed**.

7. In the light of above discussion and following the order of Coordinate Bench in the earlier years as mentioned (supra), ground no. 3 with its sub grounds are allowed and AO is directed to recompute the income of the assessee keeping

in view the provisions of section 11 particularly must take care of ground no. 3.4 and 3.4.1 in the light of section 11 (2) of the Act. In the result, ground no. 3 raised by the assessee is **allowed**.

8. As far as ground no. 4 raised by the assessee is concerned, we have considered the order of AO and the order of Ld. CIT (A) passed u/s. 250, we observed that this ground has already been taken before Ld. CIT (A) vide form No. 35 ground no. 8 and this ground of appeal of assessee has already been allowed vide para 8.10, page no. 66 of Ld. CIT (A)'s order. In that situation, on this issue, we do not find any grievance or harm caused to the assessee, against which assessee raised this issue again before us. We find this ground to be infructuous as already decided in favour of assessee by the Ld. CIT (A), hence dismissed as no adjudication is required.

9. Ground no. 5 pertains to non-grant of TDS credit. On this issue, we direct the jurisdictional AO to verify the amount of TDS claimed by the assessee vis-a-vis amount appearing in Form No. 26AS with reference to income disclosed by the assessee and grant the refund of TDS in the case of assessee as income of the assessee has already been declared to be NIL in our findings (supra). This ground of appeal raised by the assessee is **allowed for statistical purposes**.

10. Resultantly, the appeal filed by the assessee is **partly allowed for statistical purposes**.

11. The revenue has raised the following grounds of appeal in ITA No. 1035/Mum/2023 for AY 2015-16:-

1. *Whether, on the facts and in the circumstances of the case and in law the Ld. CIT (A) is right in allowing the appeal of the assessee on the basis of the decision of Hon'ble ITAT in the assessee's own case from 1. y - 2009 - 10 to A.Y -2014-15. In this regard, it is submitted that the department has not accepted the decision of Hon'ble ITAT on merits and filed appeal before Hon'ble Bombay High Court vide ITXA / 340 / 2019 ITXA / 571 / 2019 ITXA / 572 / 2019 ITXA / 1871 / 2 O22 and ITXA/1113/2020 for A. Y - 2009 - 10, A.Y 2010-11, Y - 2012, A. Y - 2013.14 & Y - 2014 - 15 respectively and the same is pending for adjudication?*
2. *Whether on facts and circumstances of the case and in law the Ld. CIT (A) is right in allowing exemption u/s 11 of the IT Act, 1961 without appreciating that the major activities of the assessee are in nature of trade, commerce or business and are not charitable in nature in view of section 2(15) of the IT Act?*
3. *Whether on facts and circumstances of the case and in law the Ld.CIT(A) is right in holding that the assessee is an educational institution without appreciating the fact that the assessee has wide ranging objectives from education, training and development of personnel of banking & financial Institutions, organizing seminars, conducting research in Institutions, to provide consultancy services for increasing productivity, publication of journal, etc and is actually pursuing all these objects which may at the most can be considered as charitable objections of general public utility on which proviso to section 2(15) applies?*
4. *Whether on facts and circumstances of the case and in law the Ld.CIT(A) is right in holding that the assessee is an educational institution without appreciating the fact that The proceeds from the activities carried out by the assessee are also substantial and hence as has been stated in the Hon'ble Supreme Court's judgement in the case of Ahmadabad Urban Development Authority, the assessee is engaged in business activities and therefore proviso to section 2(15) of the Act shall be applicable and exemption u/s. 11 of the Act shall be denied to the assessee?*

*5. Whether on the facts and circumstances of the case and in law and in light of the law laid down by Hon'ble Supreme Court in Civil Appeal No. 21762 of 2017 in various batch of appeal and SLP's lead case ACIT (Exemptions) Vs. Ahmadabad Urban Development Authority [2022] 143 taxmnn.com 278(SC), the Ld.CIT(A) erred in not appreciating that even if the activities of the assessee are held to be covered under residuary part section 2(15) as "advancement of any other object of general public utility" even then it is not entitled to exemption u/s . 11, because it is hit by the proviso to section 2(15), as the income of the assessee consists of activities which are in the nature of trade, commerce or business?*

12. Ground no. 1 pertains to the fact that in the matter of assessee earlier decisions of Coordinate Bench were not accepted by the revenue on the ground that the department is in appeal before the Hon'ble Bombay High Court. Since the Ld. CIT (A) followed the order of Tribunal, hence, revenue is in appeal before us. We are of considered view that merely for the reason, the department is in appeal against the Tribunal order is no ground for not following the Tribunal order. In this case, instead of following the directions of ITAT on the similar facts and in assessment year 2009-10 to 2014-15, AO chosen to ignore the same which is not correct and this deficiency has rightly been removed by the Ld. CIT (A) by following the order of Coordinate Bench. We do not see any infirmity in the order of Ld. CIT (A) while doing so. Resultantly, ground no. 1 raised by revenue is **dismissed**.

13. Ground no. 2 & 3 are already discussed in detail and decided in favour of assessee in assessee's appeal vide ITA No. 755/Mum/2023, hence no separate adjudication is require here. In the result, ground no. 2 & 3 raised by the assessee are **dismissed**.

14. Through ground no. 4 & 5, revenue wants to push the matter in the light of decision of Hon'ble Supreme Court in the case of **ACIT (Exemptions) Vs. Ahmadabad Urban Development Authority [2022] 143 taxmn.com 278(SC)**. For the sake of clarity and to establish that the ratio laid down in this case is not applicable to the facts of the case under consideration, relevant extract of the judgment **ACIT (Exemptions) Vs. Ahmadabad Urban Development Authority (supra)** is being reproduced herein below for further analysis:-

*“The paradigm change achieved by section 2(15) after its amendment in 2008 and as it stands today, is that firstly a general public utility (GPU) charity cannot engage in any activity in the nature of trade, commerce, business or any service in relation to such activities for any consideration (including a statutory fee etc.). This is emphasized in the negative language employed by the main part of section 2(15). Therefore, the idea of a predominant object among several other objects is discarded. The prohibition is relieved to a limited extent, by the proviso which carves out the condition by which otherwise prohibited activities can be engaged in by GPU charities. The conditions are:*

- (a) That such activities in the nature of trade, commerce, business or service (in relation to trade, commerce or business for consideration) should be in the course of "actual carrying on" of the GPU object, and*
- (b) The quantum of receipts from such activities should not exceed 20 per cent of the total receipts.*
- (c) Both parts of the proviso: (i) and (ii) (to section 2(15)) have to be read conjunctively-given the conscious use of "or" connecting the two of them. This means that if a charitable trust carries on any activity in the nature of business, trade or commerce, in the actual course of fulfilling its objectives, the income from such business, should not exceed the limit defined in sub-clause (ii) to the proviso. [Para 153]”*

*“Section 11(4) applies to cases where the business undertaking itself is the property held by a trust. Thus, where the property held in trust, or where property settled by the donor or trust creator in favour of the trustees itself is a business undertaking, then the income from such an undertaking is covered by section 11(4). Section 11(4A) operates differently. It is applicable to cases where the trust carries on a business. Section 11(4A)*

*states that when a trust carries on a business, unless the business is incidental or ancillary to the attainments of the objectives of the trust, it would be disentitled to an exemption under section 11(1). It imposes a further condition that separate books of account need to be maintained in such cases. [Para 155]”*

*“It is opined that, the change intended by Parliament through the amendment of section 2(15) was sought to be emphasised and clarified by the amendment of section 10(23C) and the insertion of section 13(8). This was Parliament's emphatic way of saying that generally no commercial or business or trading activity ought to be engaged by GPU charities but that in the course of their functioning of carrying out activities of general public utility, they can in a limited manner do so, provided the receipts are within the limit spelt out in clause (ii) of the proviso to section 2(15). [Para 175]”*

*“A singular characteristic of ICAI and other statutory bodies which can be said to regulate specific functions and professions (including the profession of Cost and Work Accountants, and Company Secretary, etc.) is the powers conferred upon them by the statutes to prescribe standards and enforce them through disciplinary sanctions. Therefore, it is held that bodies which regulate professions and are created by or under statutes which are enjoined to prescribe compulsory courses to be undergone before the individuals concerned is entitled to claim entry into the profession or vocation, and also continuously monitor the conduct of its members do not ipso facto carry on activities in the nature of trade, commerce or business, or services in relation thereto. [Para 196]”*

15. The relevant extract of decision of Hon'ble Apex Court in the case Ahmadabad Urban Development Authority reproduced (supra) clearly envisages that until and unless AO is able to point out that in the activities of the assessee element of profit is embedded, simply because a surplus is there mischief of section 2(15) cannot be attracted. We have gone through the memorandum and object clauses of the assessee it is emanated that with the operations and activities of the assessee whatever may be the surplus arising is being accumulated within the prescribed limit and is being used to deploy back to attain

the primary objective of the institution. In the given set of facts, revenue's reliance on decision of Hon'ble Apex Court in the case **Ahmadabad Urban Development Authority** would not support the case of revenue.

16. In the light of above, we do not have any hesitation in holding that the case laws relied upon by the department have different facts and department was able to establish that presence of profit element was there in addition to the fact that activities were in the nature of trade or commerce. Whereas in this case, there is no finding of fact by the revenue that assessee was involved in earning profits through trade or commerce which attracts the mischief of section 2(15). In the given situation, we do not find any reason to interfere with the order of Ld. CIT (A) and appeal of the revenue is **dismissed**.

17. Resultantly, the appeal filed by the revenue is **dismissed**.

18. The assessee has raised the following grounds of appeal in ITA No. 754/Mum/2023 for AY 2016-17:-

*1. The order of the learned Commissioner of Income Tax (Appeals) is bad in law and against the facts of the case.*

*2. The learned Commissioner of Income Tax (Appeals) erred in not granting the exemption u/s. 10(23C) of the Act holding that the appellant didn't have approval u/s. 10(23C)*

*2.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate that appellant was holding valid registration u/s. 10(23C)*

*2.2. The learned Commissioner of Income Tax (Appeals) failed to appreciate that the appellant was an institution notified u/s. 10(23C)(iv) vide Notification*

*No. 318/2006 dated 14/11 / 2006 and the appellant had duly complied with the conditions mentioned in the notification granting exemption u/s. 10(23C)(iv)*

*2.3. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the income of the appellant was exempt u/s. 10(23C).*

*3. The order u/s. 143(3) is bad and not tenable as the same is passed without issuing a valid notice u/s. 143(2) of the Income Tax Act, 1961.*

*4. The learned Commissioner of Income Tax (Appeals) erred in not adjudicating the ground relating to alternate assessment made by the Assessing Officer.*

*4.1. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) failed to appreciate that computation of total income at Rs. 9,24,91,735/- on an alternate basis if the appellant is allowed exemption u / s 11 of the Act made by the learned Assessing Officer is not sustainable.*

*4.2. The learned Commissioner of Income Tax (Appeals) failed to appreciate that the contribution of Rs. 1, 99, 23,731/- received from member banks towards Campus Development Fund cannot be treated as income.*

*4.3. The learned Commissioner of Income Tax (Appeals) failed to appreciate that the interest of Rs. 18,340/- received from the Staff cannot be treated as income.*

*5. The learned Commissioner of Income Tax (Appeals) erred in not adjudicating the ground relating to treating capital receipts as income.*

*5.1. Without prejudice to the above, the learned Assessing Officer erred in treating the capital receipts as an income.*

*For all these and other grounds, which may be urged at the time of hearing, the appellant prays that its appeal be allowed.*

19. Ground no. 1 raised by the assessee is general in nature, hence no adjudication is required. Ground no. 2 raised by assessee is similar in facts and law as in AY 2015-16 decided (supra) in ITA No. 755/Mum/2023. The ratio laid there will apply mutatis mutandis here also. In the result, ground no. 2 with its sub grounds is **dismissed**.

20. Ground no. 3 raised by assessee is not sustainable as we have gone through the order of AO and it is categorically mentioned that a valid notice u/s 143(2) was issued on 04.07.2017 and duly served on the assessee thereafter a notice u/s 142(1) dated 30 June 2018 was also issued alongwith questionnaire. This questionnaire issued to the assessee was very well responded by the assessee and nowhere during the assessment proceedings assessee challenged /pointed out this deficiency. Moreover this contention was never raised before the Ld. CIT (A) also as we have gone through the Form No. 35. Assessee is failed to substantiate this ground of appeal before us also, hence the same is dismissed as found to be baseless.

21. Ground no. 4 raised by assessee is similar in facts and law as in AY 2015-16 decided (supra) in ITA No. 755/Mum/2023. The ratio laid there will apply mutatis mutandis here also. In the result, ground no. 4 with its sub grounds are allowed and it is further directed to the AO in response to ground no. 4.2 that amount of Rs. 1,99,23,731/- cannot be treated as income at all as the same has been received with a specific direction from Member banks towards campus development fund. As the same has been received with a specific direction and will become part of corpus. Corpus can never be equated with income, being capital in nature.

22. Ground no. 5 raised by assessee is similar in facts and law as in AY 2015-16 decided (supra) in ITA No. 755/Mum/2023. The ratio laid there will apply mutatis mutandis here also. In the result, ground no. 5 is **allowed**.

23. **Resultantly, the appeal filed by the assessee is partly allowed.**

24. The revenue has raised the following grounds of appeal in ITA No. 1036/Mum/2023 for AY 2016-17:-

*1. Whether, on the facts and in the circumstances of the case and in law the Ld.CIT(A) is right in allowing the appeal of the assessee on the basis of the decision of Hon'ble ITAT in the assessee's own case from Y - 2009 - 10 to A. Y - 2014-15 . In this regard, it is submitted that the department has not accepted the decision of Hon'ble ITAT on merits and filed appeal before Hon'ble Bombay High Court vide ITXA / 340 / 2019 ITXA / 571 / 2019 ITXA/572/2019, ITXA / 1871 / 2 O22 and ITXA / 1113 / 2020 for A. Y - 2009 - 10 . AY - 2010 - 11 y - 2012 - , A. Y - 2013 - 14 & A. Y - 2014 - 15 respectively and the same is pending for adjudication?*

*2. Whether on facts and circumstances of the case and in law the Ld. CIT (A) is right in allowing exemption u/s. 11 of the IT Act, 1961 without appreciating that the major activities of the assessee are in nature of trade, commerce or business and are not charitable in nature in view of section 2(15) of the IT Act?*

*3. Whether on facts and circumstances of the case and in law the Ld.CIT(A) is right in holding that the assessee is an educational institution without appreciating the fact that the assessee has wide ranging objectives from education, training and development of personnel of banking & financial Institutions, organizing seminars, conducting research in Institutions, to provide consultancy services for increasing productivity, publication of journal, etc and is actually pursuing all these objects which may at the most can be*

*considered as charitable objections of general public utility on which proviso to section 2(15) applies?*

*4. Whether on facts and circumstances of the case and in law the Ld.CIT(A) is right in holding that the assessee is an educational institution without appreciating the fact that The proceeds from the activities carried out by the assessee are also substantial and hence as has been stated in the Hon'ble Supreme Court's judgement in the case of Ahmadabad Urban Development Authority, the assessee is engaged in business activities and therefore proviso to section 2(15) of the Act shall be applicable and exemption u/s 11 of the Act shall be denied to the assessee?*

*5. Whether on the facts and circumstances of the case and in law and in light of the law laid down by Hon'ble Supreme Court in Civil Appeal No. 21762 of 2017 in various batch of appeal and SLP's lead case ACIT (Exemptions) Vs. Ahmadabad Urban Development Authority (2022] 143 taxmnn.com 278(SC), the Ld.CIT(A) erred in not appreciating that even if the activities of the assessee are held to be covered under residuary part section 2(15) as "advancement of another object of general public utility" even then it is not entitled to exemptions because it is hit by the proviso to section 2(15) as the income of the assessee consists of activities which are in the nature of trade, commerce or business?.*

25. Since we have already decided the similar grounds in revenue's appeal for AY 2015-16 in ITA No. 1035/Mum/2023 of the findings given therein would mutatis mutandis apply to this appeal also. **Accordingly, the appeal filed by the revenue is dismissed.**

26. The assessee has raised the following grounds of appeal in ITA No. 756/Mum/2023 for AY 2017-18:-

*1. The order of the learned Commissioner of Income Tax (Appeals) is bad in law and against the facts of the case.*

*2. The learned Commissioner of Income Tax (Appeals) erred in not granting the exemption u/s. 10(23C) of the Act holding that the appellant didn't have approval u/s. 10(23C).*

*2.1. The learned Commissioner of Income Tax (Appeals) failed to appreciate that appellant was holding valid registration u/s. 10(23C)*

*2.2. The learned Commissioner of Income Tax (Appeals) failed to appreciate that the appellant was an institution notified u/s 10(23C)(iv) vide Notification No. 318/2006 dated 14/11/2006 and the appellant had duly complied with the conditions mentioned in the notification granting exemption u/s 10(23C)(iv)*

*2.3. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that the income of the appellant was exempt u/s. 10(23C)*

*3. The learned Commissioner of Income Tax (Appeals) erred in not adjudicating the ground relating to treating capital receipts as income.*

*3.1. Without prejudice to the above, the learned Assessing Officer erred in treating the capital receipts as an income.*

*3.2. The learned Assessing Officer erred in considering the contribution from the member banks towards Campus Development Fund of Rs. 3, 42, 49,392/- as income..*

*3.3. The learned Assessing Officer failed to appreciate that the amount received by the appellant was a capital receipt or tied up grants for specific purpose and thus, cannot be regarded as income under Section 2(24)(iia) of the Act.*

*For all these and other grounds, which may be urged at the time of hearing, the appellant prays that its appeal be allowed.*

27. Ground no. 1 raised by the assessee is general in nature, hence no adjudication is required. Ground no. 2 raised by assessee is similar in facts and law as in AY 2015-16 decided (supra) in ITA No. 755/Mum/2023. The ratio laid there

will apply mutatis mutandis here also. In the result, ground no. 2 with its sub grounds is **dismissed**.

28. Ground no. 3 raised by assessee is similar in facts and law as in AY 2015-16 decided (supra) in ITA No. 755/Mum/2023. The ratio laid there will apply mutatis mutandis here also. In the result, ground no. 3 with its sub grounds are **allowed** and it is further directed to the AO in response to ground no. 3.2 that amount of Rs. 3,42,49,392/- cannot be treated as income at all as the same has been received with a specific direction from Member banks towards campus development fund.

29. **Resultantly, the appeal filed by the assessee is partly allowed.**

30. The revenue has raised the following grounds of appeal in ITA No. 1037/Mum/2023 for AY 2017-18:-

*1. Whether, on the facts and in the circumstances of the case and in law the Ld.CIT(A) is right in allowing the appeal of the assessee on the basis of the decision of Hon'ble ITAT in the assessee's own case from A. Y - 2009 - 10 to A.Y - 2014 - 15 In this regard, it is submitted that the department has not accepted the decision of Hon'ble ITAT on merits and filed appeal before Hon'ble Bombay High Court vide ITXA / 340 / 2019 ITXA / 571 / 2019 ITXA / 572 / 2019 ITXA / 1871 / 2022 and ITXA / 1113 / 2020 for A. Y - 2009 - 10 A. Y - 2010 - 11 Y - 2012 - 13 Y - 2013 - 14 & AY - 2014 - 15 respectively and the same is pending for adjudication?*

*2. Whether on facts and circumstances of the case and in law the Ld.CIT (A) is right in allowing exemption u/s 11 of the IT Act, 1961 without appreciating that the major activities of the assessee are in nature of trade, commerce or business and are not charitable in nature in view of section 2(15) of the IT Act?*

*3. Whether on facts and circumstances of the case and in law the Ld.CIT(A) is right in holding that the assessee is an educational institution without appreciating the fact that the assessee has wide ranging objectives from education, training and development of personnel of banking & financial Institutions, organizing seminars, conducting research in Institutions, to provide consultancy services for increasing productivity, publication of journal, etc and is actually pursuing all these objects which may at the most can be considered as charitable objections of general public utility on which proviso to section 2(15) applies?*

*4. Whether on facts and circumstances of the case and in law the Ld.CIT(A) is right in holding that the assessee is an educational institution without appreciating the fact that The proceeds from the activities carried out by the assessee are also substantial and hence as has been stated in the Hon'ble Supreme Court's judgement in the case of Ahmadabad Urban Development Authority, the assessee is engaged in business activities and therefore proviso to section 2(15) of the Act shall be applicable and exemption u/s. 11 of the Act shall be denied to the assessee?*

*5. Whether on the facts and circumstances of the case and in law and in light of the law laid down by Hon'ble Supreme Court in Civil Appeal No. 21762 of 2017 in various batch of appeal and SLP's lead case ACIT (Exemptions) Vs. Ahmadabad Urban Development Authority [2022] 143 taxmnn.com 278(SC), the Ld.CIT(A) erred in not appreciating that even if the activities of the assessee are held to be covered under residuary part section 2(19 "advancement of any other object of general public utility" even then entitled to exemption u because it is hit by the proviso to section 2(15) as the income of the assessee consists of activities which are in the nature of trade, commerce or business?.*

31. Since we have already decided the similar grounds in revenue's appeal for AY 2015-16 in ITA No. 1035/Mum/2023 of the findings given therein would mutatis mutandis apply to this appeal also. **Accordingly, the appeal filed by the revenue is dismissed.**

**32. In the result, the appeal filed by the assessee for AY 2015-16 is partly allowed for statistical purposes and both the appeal filed by the assessee for AY 2016-17 and 2017-18 are partly allowed and all the appeals filed by the revenue for AY 2015-16 to 2017-18 are dismissed.**

Order pronounced in the open court on 5<sup>th</sup> day of July, 2023.

Sd/-

(VIKAS AWASTHY)  
JUDICIAL MEMBER  
Mumbai, दिनांक/Dated: 05/07/2023  
*Sr. PS (Dhananjay)*

Sd/-

(GAGAN GOYAL)  
ACCOUNTANT MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**