

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "D" MUMBAI**

**BEFORE SHRI BR BASKARAN (ACCOUNTANT MEMBER) AND  
SHRI RAJ KUMAR CHAUHAN (JUDICIAL MEMBER)**

**ITA No. 3554/MUM/2024  
Assessment Year: 2013-14**

Dy. CIT (Exemption)-2(1),  
6<sup>th</sup> floor, MTNL Telephone  
Exchange Building, Dr. GD  
Deshmukh Marg, Peddar Road,  
Cumbala Hill,  
Mumbai-400026.

**Appellant**

**Vs.** Maneckji Cooper Education Trust,  
Juhu Tara Road, Santacruz (W),  
Mumbai-400049.

**PAN NO. AAATM 0173 G  
Respondent**

**CO No. 148/MUM/2024  
(Arising out of ITA No. 3554/MUM/2024)  
Assessment Year: 2013-14**

Maneckji Cooper Education Trust,  
Juhu Tara Road, Santacruz (W),  
Mumbai-400049.

**PAN NO. AAATM 0173 G  
Appellant**

**Vs.** Dy. CIT (Exemption)-2(1),  
6<sup>th</sup> floor, MTNL Telephone Exchange  
Building, Dr. GD Deshmukh Marg,  
Peddar Road, Cumbala Hill,  
Mumbai-400026.

**Respondent**

Assessee by : Mr. Jay Bhansali  
Revenue by : Mrs. Mahita Nair, Sr. DR

Date of Hearing : 29/08/2024  
Date of pronouncement : 05/09/2024

**ORDER**

**PER BR BASKARAN, AM**

The appeal filed by the revenue and the cross objection filed by the assessee are directed against the order dated 14-05-2024 passed by Ld CIT(A), NFAC, Delhi and they relate to the assessment year 2013-14. The



revenue is aggrieved by the decision of Ld CIT(A) in deleting the addition of Rs.2,96,84,553/- made by the AO.

2. The assessee is a charitable trust registered u/s 12A of the Act. It claimed exemption u/s 11 of the Act. The return of income filed by the assessee was taken up for scrutiny and the assessment was completed u/s 143(3) of the Act on 12-03-2016 determining total income of the assessee at Rs.2.24 crores. Subsequently, the AO reopened the assessment by issuing notice u/s 148 of the Act. The reason recorded for reopening is that the assessee had not kept the amount accumulated u/s 11(2) of the Act in AY 2012-13 (immediately preceding year) as investment in any of the modes prescribed u/s 11(5) of the Act. From the record, the AO noticed that the assessee had accumulated a sum of Rs.4.03 crores in AY 2012-13, but it has made fresh deposits of Rs.1.06 crores only in the succeeding year. Accordingly, the AO assessed the difference amount of Rs.2.97 crores as income of the assessee.

3. Before Ld CIT(A), the assessee demonstrated that there was a mistake in preparing the investment Schedule in the financial statements. It was submitted that the balance in the account of investment as on 31.3.2012 was Rs.44.27 crores. During the financial year relevant to AY 2013-14, there was maturity of investment to the tune of Rs.28.75 crores and fresh investments of Rs.33.91 crores. Accordingly, the balance of investments as on 31.3.2013 stood at Rs.49.43 crores. However, in the Schedule of Investments, the opening balance of investments was erroneously shown at Rs.77.12 crores, but the closing balance of investments was correctly shown at Rs.49.43 crores. However, the fresh investments were wrongly shown at Rs.1.06 crores as against Rs.33.91 crores. The fresh investment to the tune of Rs.32.85 crores was wrongly included in the opening balance of investments. It was further submitted that, since the fresh investments made during the year were more than the amount of Rs.4.03 crores accumulated in AY 2012-13, the disallowance made by the AO should be



deleted. The Ld CIT(A) was convinced with the submissions made by the assessee, after verification of the financial statements. Accordingly, he deleted the disallowance made by the AO. The revenue is aggrieved.

4. We heard the parties and perused the record. We notice that the Ld CIT(A) has deleted the disallowance made by the AO with the following observations:-

“7.3 The clarification submitted by the appellant has been perused carefully. In regard to the verify the claim of the appellant in regard to the claim for typographical error, following points need to examine thoroughly:

7.3.1 Opening balance of the Investments for the year under consideration: The appellant’s claim that the opening balance for the year under consideration i.e. AY 2013-14 was wrongly mentioned as Rs.77,12,44,000/- instead of Rs.44,27,44,000/- has been checked with the Balance Sheet for the previous year i.e. AY 2012-13. As noticed from the balance sheet as on 31.03.2012, it is noticed that the closing balance of the Investments is shown at Rs. 44,27,44,000/- which shall be the opening balance for the AY 2013-14 (appellant has also submitted the relevant Investment schedule for the yeas ending on 31.03.2012 has submitted as well). Therefore the appellant’s contention that the typographical error was made while mentioning the opening balance of the Investments for the AY 2013-14 is true and verified from the facts.

7.3.2 Investments made during the AY 2013-14: The appellant has also claimed the he wrongly mentioned the investments made during as part of them was included in “opening balance” of the investment instead of the “Investment made during the year”. In support of the claim the appellant has submitted the details of the Investments made during the year in his submission. The same has been perused and it is noticed that the Investments of Rs. 32,85,00,000/- made during the year with HDFC bank and Union bank was not shown in the Investments during the year. The appellant has also submitted the proof towards such investments made. It is also noticed that the instead of the showing these investments as made during the year, the appellant has mistakenly added the same in the opening balance of Investments i.e.

<i>Rs.44,27,44,000/-</i>	<i>(actual opening balance for AY 2013-14)</i>
<i>+ Rs.32,85,00,000/-</i>	<i>(investment not shown for AY 2013-14)</i>
<i>= Rs.77,12,44,000/-</i>	<i>(mistakenly shown as opening balance of investments for the Ay 2013-14)</i>

7.4 As discussed above in details, both the claims of the appellant that due to typographical error, the opening balance and investment made during the year were wrongly



mentioned in the books of accounts are found to be correct and backed by the evidence submitted. The same contention was also made before the AO before passing the assessment, however the same was either not considered or not verified by the AO. The contention made by the appellant is valid and have force in its grounds. In view of the above discussion, and considering the facts of the case, **these grounds of appeal are allowed** and the addition made by the AO in this regard is hereby deleted.

5. We notice that the assessee has committed an error in preparing the Schedule to Balance Sheet depicting the value of investments. A part of purchases made during the year under consideration was erroneously included in the Opening Balance. The assessee has also furnished the details of fresh investments made during the year under consideration, which were wrongly included in the Opening balance, before the Ld CIT(A) as under:-

*“The assessee submits that there was a typographical error in the Opening Investments as well as fresh investments made during the year. The following deposits were erroneously considered as a part of opening investments but the same ought to have been part of Additions during the year:*

Particulars	Amount (Rs)
HDFC Premium Deposit @ 10.1%	7,00,00,000/-
HDFC Premium Deposit @ 9.7%	9,00,00,000/-
HDFC Premium Deposit @ 9.76%	5,00,00,000/-
HDFC Premium Deposit @ 9.6%	10,50,00,000/-
Union Bank of India - Fixed Deposit @ 9.6%	1,35,00,000/-
<b>Total</b>	<b>32,85,00,000/-</b>

A copy of certificate of deposits along with bank statement of assessee showing payment proof is enclosed at page 54-69 of the compilation.”

6. From the order passed by Ld CIT(A), we notice that the first appellate authority has verified these factual aspects and has concluded that the assessee has fully invested the amounts accumulated in AY 2012-13 in the succeeding year. Accordingly, he has directed the AO to delete the addition



made by him. Since the decision rendered by Ld CIT(A) is based on facts and since the revenue did not file any material to controvert the same, we uphold the order passed by Ld CIT(A).

7. The assessee has filed cross objection, wherein it has challenged the validity of reopening of assessment. Since we have upheld the relief granted by Ld CIT(A) on merits, we decline to adjudicate the legal issue urged by the assessee, as the same is rendered academic in nature.

8. In the result, the appeal filed by the revenue and the cross objection filed by the assessee are dismissed.

**Order pronounced in the open Court on 05/09/2024.**

**Sd/-  
(RAJ KUMAR CHAUHAN)  
JUDICIAL MEMBER**

**Sd/-  
(BR BASKARAN)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 05/09/2024  
Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,  
(Assistant Registrar)  
**ITAT, Mumbai**