

**| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"H (SMC)" BENCH, MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**

**&**

**SHRI RAJ KUMAR CHAUHAN, HON'BLE JUDICIAL MEMBER**

**I.T.A. No. 3891/Mum/2024**

**Assessment Year: 2022-23**

<b>HMIL Shareholding (Training and Development-1994) Trust No. 2, Mumbai Ion House, Dr. E. Moses Road Mahalaxmi Mumbai - 400011 [PAN: AACTH0074R]</b>	Vs	<b>ITO, Ward - 6(1)(1), Mumbai</b>
<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>

Assessee by :	Shri Motichand Gupta, A/R
Revenue by :	Shri Ram Prakash Rastogi, Sr. D/R

सुनवाई की तारीख/**Date of Hearing** : 03/10/2024

घोषणा की तारीख/**Date of Pronouncement** : 03/10/2024

**आदेश/ORDER**

**PER NARENDRA KUMAR BILLAIYA, AM:**

This appeal by the assessee is preferred against the order dated 11/06/2024 passed by Id. CIT(A)-1, Mumbai [hereinafter 'Id. CIT(A)'] pertaining to AY 2022-23.

2. The grievance of the assessee reads as under:-

*"Being aggrieved by the order of the Id. Addl/JCIT(A), the Appellant begs to prefer the present appeal on the following grounds which are without prejudice to each other:*

1. *That on the facts and in the circumstances of the case, the Ld Assessing Officer and the Ld First Appellate Authority erred in facts as well as in law by treating the appellant as an Association of Person.*

2. *That on the facts and in the circumstances of the case, the Ld Assessing Officer and the Ld First Appellate Authority erred in facts as well as in law by determining the tax liability of the Appellant at Maximum Marginal Rate (MMR).*

3. *That on the facts and in the circumstances of the case, the Ld Assessing Officer and the Ld First Appellate Authority has erred in facts as well in law, in computing the tax liability of the Appellant by applying section 167B of the Act, without appreciating the fact that the appellant is not an Association of Person and merely acting as a representative.*
4. *That on the facts and in the circumstances of the case, the Ld Assessing Officer and the Ld First Appellate Authority has erred in facts as well in law, in not computing the tax liability of the Appellant under section 164(1) of the Act read with proviso (iv), at the slab rates.*
5. *That on the facts and in the circumstances of the case, the Ld. Addl/JCIT(A) has erred in holding the delay in filing of the appeal by the Appellant as without 'sufficient cause', and dismissing the appeal without any discussion on merits.*
6. *That on the facts and in the circumstances of the case, the Ld. Addl/JCIT(A) has erred in not rectifying the mistake that had crept in while filing the Return of Income by the accountants of Appellant.*
7. *That on the facts and in the circumstances of the case, the Ld. Addl/JCIT(A) has erred in disposing off the appeal without granting the Appellant Trust an opportunity of being heard.*
8. *That the Appellant craves leave to add to or alter, by deletion, substitution, or otherwise, any or all of the foregoing grounds of appeal at or before the hearing, and to submit such statements, documents, and papers as may be considered necessary either at or before the appeal hearing.*

3. The assessee has moved the following application dt. 03/10/2024:-

*"To  
The Deputy Registrar,  
Income-tax Appellate Tribunal, Mumbai  
Maharishi Karve Road, Churchgate  
New marine Lines Mumbai  
Maharashtra - 400020*

*Ref: HMIL Shareholding (Training & Development -1994) Trust - 2 v. ITO  
Income-tax Appeal No. 3891/MUM/2024  
Bench "SMC"  
Date of Hearing - 3rd October 2024  
Assessment Year: 2022-23; PAN: AACTH0074R*

*Sub - Application requesting withdrawal of appeal.*

*Respected Sir, Madam,*

The captioned appeal has been filed by the Employee Benefit Trust of M/s Ion Exchange India Ltd, relates to rate of tax to be applied on income earned by the Trust. The Centralised Processing Centre (CPC), vide its order [intimation u/s 143(1) of the Act dated 13.10.2022 has taxed the income of the trust at Maximum Marginal Rate, while the Appellant Trust seeks to be taxed at slab rates. The CIT(A) had dismissed the appeal of the Assessee as the appeal was filed beyond statutory time limit.

The Appellant Trust had moved an application u/s 154 of the Act on 05.08.2024, seeking the CPC to rectify the impugned intimation passed u/s 143(1), to compute tax on the income of the Appellant on slab rate basis. The relief sought in the rectification application is similar to the relief sought in the subject appeal before the Tribunal. The CPC has processed the rectification application on 18.09.2024 and granted us the relief sought therein, by restricting the rate of tax to slab rate.

As the relief sought before the Hon'ble Tribunal has been granted by the CPC in the rectification application, the Appellant submits that the subject appeal has become infructuous. Hence, we humbly pray for withdrawal of the subject appeal filed before the Hon'ble Tribunal.

Your Truly,

**For HMIL Shareholding (Training & Development - 1994) Trust -2,**

Mothichand gupta

DGM-Taxation at Ion Exchange (India) Limited"

4. Noting the contents of the application, the appeal is allowed to be withdrawn and accordingly dismissed as withdrawn.
5. In the result, appeal of the assessee is dismissed.

**Order pronounced in the Court on 3<sup>rd</sup> October, 2024 at Mumbai.**

*Sd/-*

**(RAJ KUMAR CHAUHAN)**  
JUDICIAL MEMBER

*Sd/-*

**(NARENDRA KUMAR BILLAIYA)**  
ACCOUNTANT MEMBER

Mumbai, Dated 03/10/2024

*\*SC S.P.*

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

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

आदेशानुसार/ BY ORDER,  
TRUE COPY

**Assistant Registrar**  
आयकर अपीलीय अधिकरण  
ITAT, Mumbai