

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH**

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI SOUNDARARAJAN K., JM**

**ITA No. 576/Coch/2024
Assessment Year: 2017-18**

ACIT (Exemptions) Appellant
4th Floor, Aayakr Bhavan
Old Railway Station Road
Ernakulam 682018

Vs.

MAJ Hospital Respondent
Church Road, Edapally
Ernakulam 682024
[PAN: AABTM0661Q]

**CO No. 8/Coch/2024
Assessment Year: 2017-18**

MAJ Hospital Cross Objector
Church Road, Edapally
Ernakulam 682024
[PAN: AABTM0661Q]

Vs.

ACIT (Exemptions) Appellant in appeal
4th Floor, Aayakr Bhavan
Old Railway Station Road
Ernakulam 682018

Assessee by: Shri K.M. Jose, Advocate
Revenue by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 16.12.2024
Date of Pronouncement: 30.12.2024

ORDER

Per: Inturi Rama Rao, AM

This appeal filed by the Revenue is directed against the order of the Commissioner of Income Tax (Appeals) -1, Guwahati [CIT(A)] dated 18.04.2024 for Assessment Year (AY) 2017-18.

2. Brief facts of the case are that the appellant is a trust duly registered u/s. 12A of the Income Tax Act, 1961 (the Act). It filed the return of income for AY 2017-18 on 31.10.2017 declaring Nil income after claiming exemption u/s. 11 of the Act. The said return of income was processed by the CPC vide intimation dated 29.03.2019 passed u/s. 143(1) of the Act determining Nil income. While processing the said return of income, an amount of Rs. 2,62,74,681/-, being 15% of the gross income derived from property held in trust was not allowed to be carried forward.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order held that since the assessee trust claimed application of income of Rs. 20,18,67,792/- against which the CPC allowed application of income to the extent of Rs. 17,48,45,543/- and the balance of Rs.2,70,22,246/- was directed to be allowed to be carried forward for set off against application of income in subsequent years following judicial precedents.

4. Being aggrieved by the above decision of the CIT(A), Revenue is in appeal before us in the present appeal challenging the

correctness of the order of the CIT(A). It is submitted that the CIT(A) had grossly erred in allowing carry forward of Rs. 2,70,22,246/- for application in subsequent years, inasmuch as, there was no shortfall in application of income for charitable purposes for the year under consideration. The matter of carry forward of 15% of the income would only arise in case of shortfall in application of income.

5. On the other hand, the learned counsel for the assessee submits that the order of the CIT(A) is correct in law requiring no interference by the Tribunal. He placed reliance on the following judgments: -

- i) Love in Action Society vs. ITO (Exemption) 2019 ITL 1411 (Cochin Tribunal)
- ii) Director of Income Tax vs. Society for Applied Microwave Electronic Engineering and Research 413 ITR 317

6. We have heard the rival contentions of both the parties and perused the material available on record. The issue in the present appeal is whether the CIT(A) is justified in holding that the respondent assessee trust was entitled to carry forward a sum of Rs. 2,70,22,246/- for application in subsequent period. From the intimation u/s. 143(1) communicated to the assessee, it is clear that the appellant has claimed a sum of Rs. 16,04,25,470/- as application of income for charitable purposes on revenue account which was allowed by the CPC. Similarly, a sum of Rs. 1,51,67,641/- was

claimed as application of income on capital account which was allowed by the CPC. However, a sum of Rs. 2,62,74,681/- being 15% of the gross income derived from property held under the trust u/s. 11 of the Act was not allowed to be carried forward by the CPC while processing the return of income. This action of the CPC was challenged in the appeal before the CIT(A), who vide the impugned order held that the appellant trust applied income of Rs. 20,18,67,692/- against the gross income of Rs. 17,48,45,543/- and the excess application of income of Rs. 2,70,22,249/- be allowed to be carried forward for application in subsequent period. From the intimation communicated to the assessee it would be clear that the gross income of the appellant was Rs. 17,48,45,543/- against which the respondent trust had applied income to the extent of Rs.17,55,93,111/-. Thus, there is excess application only to the extent of Rs.4,28,568/-. The claim of 15% of the gross income should be allowed as standard deduction cannot be accepted as it amounts to double deduction, which is not permissible. Thus, the CIT(A) is grossly erred in proceeding on the basis that the respondent assessee applied income to the extent of Rs. 20,18,67,792/-. Therefore, the findings of the CIT(A) is reversed and the appeal filed by the assessee stands allowed.

7. The Cross Objection raised by the assessee is in support of the order of the CIT(A). Therefore, the cross object becomes infructuous, hence dismissed.

8. In the result, the appeal filed by the Revenue is allowed and the cross objection of the assessee is dismissed.

Order pronounced in the open court on 30th December, 2024

Sd/-
(SUNDARARAJAN K.)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 30th December, 2024

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin