

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AGRA (SMC) BENCH, AGRA**

**BEFORE: SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

**ITA No.158/Agr/2024  
Assessment Year: 2018-19**

Income Tax Officer(Exemption)  
Room No. 604, Aayakar Bhawan  
Sanjay Place, Agra-282002, U.P.

v. Munna Lal Dau Dayal & Sons  
Charitable Trust, 15,  
Jagannath Puri, Near Shri  
Krishna Janamasthan,  
Mathura-281003, U.P.  
(Respondent)

(Appellant)

Assesseeby :None

Revenue by : Sh. Shailendra Srivastava, Sr. DR

Date of hearing :30.01.2025

Date of Pronouncement :30.01.2025

**ORDER**

This appeal in ITA No. 158/Agr/2024 for the assessment year 2018-19 filed by Revenue has arisen from the appellate order dated 29.02.2024 (DIN& Order No. ITBA/APL/S/250/2023-24/1061785190(1)) passed by learned Commissioner of Income-tax(Appeals), Addl/JCIT(A)-1, Bengaluru, which in turn has arisen from the intimation dated 21.05.2019 issued by Centralized Processing Center, Bangalore u/s 143(1) of the Income-tax Act, 1961.

2. At the outset, it is observed that tax-effect in this appeal filed by the Revenue with ITAT, Agra Bench, Agra is 2,02,602/- as stated by the Revenue itself in the Form No. 36 filed with ITAT. None appeared on behalf of the assessee when this appeal was called for hearing before the SMC Bench. The Id. Sr. DR was asked as to how this appeal filed by the Revenue is maintainable as tax-effect is lower than Rs. 60 lacs(earlier Rs. 50 lacs) required for maintainability of Revenue's appeal before ITAT. The Id. Sr. DR sought liberty to file written reply . which was granted by the Bench. The Id. Sr DR has now filed reply vide F.No. CIT(DR)/ITAT/MunnaLalDauDayal/Agra/2024-25/197 dated 28.01.2025 , wherein report of ITO(Exemption) , Agra is enclosed. The same is placed on record. This appeal was filed by Revenue and authorisation filed along with appeal dated 05.04.2024 signed by Id. CIT(Exemption), Lucknow, states that this appeal filed by Revenue is maintainable keeping in view Circular No. 17/2019 dated 08.08.2019 read with exception as laid down in clause 10(a).The ITO(E), Agra has stated in letter dated 17.01.2025 to CIT(E) , Lucknow(copy placed on record), that this appeal is maintainable keeping in view

exception 10(a) of Circular No. 3/2018 dated 11.07.2018 and its subsequent amendment dated 20.08.2018 as also read with Circular No. 17/2019 dated 08.08.2019.

3. After hearing Id. Sr. DR and perusing the material on record, I dismiss this appeal in ITA no. 158/Agr/2024 for assessment year 2018-19 filed by the Revenue as not maintainable keeping in view low tax-effect being below the monetary limit prescribed by Circular No. 03/2018 dated 11.07.2018 and its amendment dated 20.08.2018 and Circular No. 17/2019 dated 08.08.2019, also keeping in view the latest CBDT circular no. 5/2024 dated 15.03.2024(F.No.279/Misc.142/2007-ITJ(Pt.)). The tax-effect in this appeal is Rs. 2,02,602/- as stated by Revenue in Form No. 36 which is admittedly below the monetary limit viz. presently Rs. 60 lacs(earlier Rs. 50 lacs) for filing appeal with ITAT by Revenue. The department is relying on exception 10(a) which deals with challenge to constitutional validity of the provisions of an Act or Rule . In the present case , I donot find that there was any challenge to the constitutional validity to the provisions of the Act or Rule. It was a case where CPC denied the exemption to the assessee u/s 11 and

12 of the 1961 Act while framing assessment vide intimation u/s 143(1) on the grounds that audit report in Form No. 10B was not filed by the assessee along with return of income, while Id. CIT(A) has granted relief that the assessee duly filed audit report in Form No. 10B issued by chartered accountant on 13.09.2018 which was within extended due date for filing of return of income viz. 31.10.2018. The assessee was duly registered u/s 12A of the 1961 Act. In any case, there was no constitutional challenge to the vires of the Act or the Rules, as is sought to be made out by Revenue. I have also gone through aforesaid circulars dealing with monetary limits for filing appeal by Revenue, and I do not find that this appeal is covered by exceptions to the said circulars. Thus, I hold that this appeal filed by the Revenue is not maintainable and is liable to be dismissed, keeping in view the aforesaid CBDT circulars. I clarify that I have not commented on the merits of the issues arising in this appeal. I also give liberty to Revenue to file MA for recall of this order if at any stage it is found that this appeal was not covered by CBDT circulars governing non filing of appeal by Revenue keeping in view low tax

effect. Thus, the appeal filed by Revenue is dismissed. I order accordingly.

4. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 30.01.2025

Sd/-

**(RAMIT KOCHAR)**  
**ACCOUNTANT MEMBER**

Dated:.....30.01.2025

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Assistant Registrar  
ITAT Agra