

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

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI ANIKESH BANERJEE (JUDICIAL MEMBER)**

**ITA No. 3894/MUM/2024
Assessment Year: 2023-24**

M/s Kothari Descendents
Private Trust
Plot No. 30, Jivandeep
Apartment, Station Road,
Ambernath(E), Thane- 421501
PAN NO. ABLFS5744F
Appellant

Vs.

ACIT, Central Circle-2, Thane
Ashar IT Park, 6th Floor, Wagale
Industrial Estate,
Thane- 400604

Respondent

Assessee by : Mr. Dharan Gandhi
Revenue by : Mr. Hemanshu Joshi, CIT-DR

Date of Hearing : 17/06/2025
Date of pronouncement : 19/06/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 14.06.2024 passed by the Ld. Additional/ Joint Commissioner of Income-tax (Appeals) – 1, Vadodara [in short 'the Ld. CIT(A)'] for assessment year 2023-24, raising following grounds:

"1. The learned Addl/JCIT (A)- Vadodara has erred in confirming the action of AO CPC in computing surcharge @37% instead of 15% on the tax on Dividend Income.



2. *The learned Addl/JCIT (A) - Vadodara has erred in not applying Paragraph A-Part 1 to the first schedule to the finance act of the relevant year.*
3. *The learned Addl/JCIT (A) - Vadodara has erred in confirming levy of interest us 234B & 234C as a consequence.*
4. *The appellant submits that the revised intimation issued by the CPC on June 21, 2024, which calculates the surcharge on dividend income at 15%, should be upheld.*
5. *The Appellant craves leave to add, to amend, alter/delete and/or modify the above grounds of appeal on or before the final hearing.”*

2. The brief facts, as emerging from the record, are that the appellant is a private non-charitable trust. The assessee filed its return of income on 27.07.2023, declaring total income of ₹80,15,749/-, comprising dividend income from Indian companies. The said return was processed by the Centralized Processing Centre (CPC) under Section 143(1) of the Income-tax Act, 1961 (hereinafter referred to as “the Act”), and an intimation was issued on 18.12.2023. In the said intimation, the surcharge was erroneously computed at the rate of 37% instead of 15%, resulting in a consequential tax demand of ₹6,91,490/-.

2.1 Aggrieved by the said intimation, the assessee preferred an appeal before the learned Commissioner of Income Tax (Appeals), but did not succeed. Simultaneously, the assessee also filed an application under Section 154 of the Act before the CPC, seeking rectification of the surcharge computation. The assessee contended that in terms of Part I of the First Schedule to the Finance Act,



where the total income consists solely of dividend income, the surcharge is liable to be levied at a rate not exceeding 15%, notwithstanding the applicability of the Maximum Marginal Rate (MMR).

2.2 Upon due consideration of the rectification request, the CPC accepted the claim of the assessee and issued a rectified intimation on 21.06.2024, correctly computing the surcharge at 15% and thereby granting the relief sought.

2.3 During the course of hearing before us, learned counsel for the assessee submitted that the entire grievance forming the subject matter of the present appeal stands redressed in full pursuant to the rectification order passed under Section 154 of the Act, and that no effective issue survives for adjudication.

2.4 In light of the above and since the relief sought by the assessee has already been granted by the CPC in its rectified order, we are of the considered view that the appeal has been rendered infructuous and requires no further adjudication.

5. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 19/06/2025.

Sd/-

**(ANIKESH BANERJEE)
JUDICIAL MEMBER**

Sd/-

**(OM PRAKASH KANT)
ACCOUNTANT MEMBER**



Mumbai;
Dated: 19/06/2025
Disha Raut, Stenographer

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