IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (Virtual) JODHPUR

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER
AND ANIKESH BANERJEE, HON'BLE JUDICIAL MEMBER

ITA No. 541/Jodh/2024 (A. Y. 2016-17)
ITA No. 544/Jodh/2024 (A.Y. 2017-18)
ITA No. 545/Jodh/2024 (A.Y. 2018-19)

A.C.I.T., Circle-1, Jodhpur.		Jodhpur Healthcare Pvt. Ltd. Medipulse Hospital, E-4, MIA Basni-II, Opp. AIIMs Campus, Jodhpur – 342005. PAN No. AACCJ9336P
Assessee by	Amit Kothari, C.A.	
Revenue by	Shri Ajey Malik, CIT (DR)	
Date of Hearing	28.05.2025.	
Date of Pronouncement	26.06.2025.	

ORDER

DR. MITHA LAL MEENA, A.M.:

The Captioned appeals are filed by the revenue against the separate orders even dated 03/05/2024 passed by the Ld. National Faceless Appeal Centre (NFAC/CIT (A), in respect of Assessment Year 2016-17; 2017-18 and 2018-19, where the appellant has raised similar issues in the grounds of appeal as follows:

Grounds of appeal ITA No. 541/Jodh/2024

1. Whether the ld. CIT(A) is justified in law and facts in deleting the addition of Rs. 4,29,24,592/-made on account of disallowance of deduction claimed u/s 35AD r.w.s. 80-IA of the Income-tax Act, 1961 by holding that the assessee has fulfilled all the conditions for claiming

deduction u/s 35AD, by not appreciating the fact the assessee has failed to comply with statutory requirement of provision of section 35AD(7) read with section 801A(7) to file audit report in form 10CCB within prescribed time limit to claim deduction u/s 35AD.

2. Whether the ld. CIT(A) has erred in observing that in the case of CIT vs. G.M. Knitting Industries (P). Ltd. 376 ITR 456, the Hon'ble Supreme Court further held that even though necessary \certificate in Form 10CCB along with return of income had not been filed but same was filed before final order of assessment was made, then in that case, the claim of the assessee cannot be disallowed, whereas in the above decision the Hon'ble Supreme Court has concurred with the decision of Hon'ble Bombay High Court in the case of Commissioner of Income Tax vs. Shivanand Electronics wherein it was held that in case assessee file the audit report before completion of assessment, he has to offer a satisfactory explanation for his failure to submit the same in time, the Income Tax Officer may consider the same and examine the claim of the assessee for deduction u/s 80J on the basis of the such report.

3 The Ld. CIT(A) has failed to appreciate the fact that in the present case the assessee has failed to offer a satisfactory explanation for his failure to submit the audit report in Form 10CCB in time.

4. Whether the Ld. CIT(A) is justified in holding that the assessee has filed the form 10CCB with return of income file u/s 148 of the IT Act, 1961 and going by the wordings of the section 148 which states that the provisions of the Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139. With the above reasoning, whether the Ld. CIT(A) has erred in assuming that in re-assessment cases u/s 148, the assessee gets extended time limit for compliance of statutory requirements under IT Act 1961 which are otherwise barred by limitation.

5. Whether the ld. CIT(A) is justified in law and facts in deleting the addition of Rs. 97,86,260/-made on account of disallowance of discount by ignoring the fact that the same has been disallowed after due examination of the details and relevant documents furnished by the assessee during the assessment proceedings.

6. Whether the ld. CIT(A) is justified in law and facts in deleting the addition of Rs. 97,86,260/-made on account of disallowance of discounts

by holding that AO no-where in the order has brought on record that the claim made by the appellant was by way of fraud, by ignoring that the onus to prove the genuineness of the expenses is on the assessee who has claimed them.

7. That the tax effect involved in this case is above the limit laid down in Circular No. 05/2024 dated 15.03.2024 issued by the CBDT, New Delhi."

That the appellant reserves its right to add, amend or alter the ground(s) of appeal on or before the date, the appeal is finally heard.

Grounds of Appeal ITA No. 544/Jodh/2024

1. Whether the Id. CIT(A) is justified in law and facts in deleting the addition of Rs. 57,83,448/-made on account of disallowance of deduction claimed u/s 35AD r.w.s. 80-IA of the Income-tax Act, 1961 by holding that the assessee has fulfilled all the conditions for claiming deduction u/s 35AD, by not appreciating the fact the assessee has failed to comply with statutory requirement of provision of section 35AD(7) read with section 801A(7) to file audit report in form 10CCB within prescribed time limit to claim deduction u/s 35AD.

2. Whether the ld. CIT(A) has erred in observing that in the case of CIT vs. G.M. Knitting Industries (P). Ltd. 376 ITR 456, the Hon'ble Supreme Court further held that even though necessary \certificate in Form 10CCB along with return of income had not been filed but same was filed before final order of assessment was made, then in that case, the claim of the assessee cannot be disallowed, whereas in the above decision the Hon'ble Supreme Court has concurred with the decision of Hon'ble Bombay High Court in the case of Commissioner of Income Tax vs. Shivanand Electronics wherein it was held that in case assessee file the audit report before completion of assessment, he has to offer a satisfactory explanation for his failure to submit the same in time, the Income Tax Officer may consider the same and examine the claim of the assessee for deduction u/s 80J on the basis of the such report.

3 The Ld. CIT(A) has failed to appreciate the fact that in the present case the assessee has failed to offer a satisfactory explanation for his failure to submit the audit report in Form 10CCB in time.

4. Whether the Ld. CIT(A) is justified in holding that the assessee has filed the form 10CCB with return of income file u/s 148 of the IT Act, 1961 and going by the wordings of the section 148 which states that the provisions of the Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139.
With the above reasoning, whether the Ld. CIT(A) has erred in assuming that in re-assessment cases u/s 148, the assessee gets extended time limit for compliance of statutory requirements under IT Act 1961 which are otherwise barred by limitation.
5. Whether the Id. CIT(A) is justified in law and facts in deleting the addition of Rs. 3,18,81,535/-made on account of disallowance of discount by ignoring the fact that the same has been disallowed after due examination of the details and relevant documents furnished by the assessee during the assessment proceedings.
6. Whether the Id. CIT(A) is justified in law and facts in deleting the addition of Rs. 3,18,81,535/-made on account of disallowance of discounts by holding that AO no-where in the order has brought on record that the claim made by the appellant was by way of fraud, by ignoring that the onus to prove the genuineness of the expenses is on the assessee who has claimed them.
7. Whether the Ld. CIT(A) is justified in allowing set off of the income of other sources of Rs. 15,17,209/- against the specified business loss when such income from interest, rent etc. is not related to the specified business claimed by assessee.
8. That the tax effect involved in this case is above the limit laid down in Circular No. 05/2024 dated 15.03.2024 issued by the CBDT, New Delhi."
That the appellant reserves its right to add, amend or alter the ground(s) of appeal on or before the date, the appeal is finally heard.

Grounds of Appeal ITA 545/Jodh/2024

1. Whether the Id. CIT(A) is justified in law and facts in deleting the addition of Rs. 29,62,749/-made on account of disallowance of deduction claimed u/s 35AD r.w.s. 80-IA of the Income-tax Act, 1961 by holding that the assessee has fulfilled all the conditions for claiming deduction u/s 35AD, by not appreciating the fact the assessee has failed to comply with

statutory requirement of provision of section 35AD(7) read with section 801A(7) to file audit report in form 10CCB within prescribed time limit to claim deduction u/s 35AD.

2. Whether the Id. CIT(A) has erred in observing that in the case of CIT vs. G.M. Knitting Industries (P). Ltd. 376 ITR 456, the Hon'ble Supreme Court further held that even though necessary \certificate in Form 10CCB along with return of income had not been filed but same was filed before final order of assessment was made, then in that case, the claim of the assessee cannot be disallowed, whereas in the above decision the Hon'ble Supreme Court has concurred with the decision of Hon'ble Bombay High Court in the case of Commissioner of Income Tax vs. Shivanand Electronics wherein it was held that in case assessee file the audit report before completion of assessment, he has to offer a satisfactory explanation for his failure to submit the same in time, the Income Tax Officer may consider the same and examine the claim of the assessee for deduction u/s 80J on the basis of the such report.

3 The Ld. CIT(A) has failed to appreciate the fact that in the present case the assessee has failed to offer a satisfactory explanation for his failure to submit the audit report in Form 10CCB in time.

4. Whether the Ld. CIT(A) is justified in deleting the disallowance made u/s 35AD by holding that with regard to the filing of 100CB, the fact that the appellant had filed the same during the course of the assessment proceedings and before the final order of assessment was made. With the above reasoning, whether the Ld. CIT(A) has erred in assuming that in re-assessment cases u/s 148, the assessee gets extended time limit for compliance of statutory requirements under IT Act 1961 which are otherwise barred by limitation.

5. Whether the Id. CIT(A) is justified in law and facts in deleting the addition of Rs. 2,84,06,392/-made on account of disallowance of discount, by ignoring the fact that the same has been disallowed after due examination of the details and relevant documents furnished by the assessee during the assessment proceedings.

6. Whether the Id. CIT(A) is justified in law and facts in deleting the addition of Rs. 2,84,06,392/-made on account of disallowance of discounts by holding that AO no-where in the order has brought on focord that the claim made by the appellant was by way of fraud, by ignoring that

the onus to prove the genuineness of the expenses is on the assessee who has claimed them.

7. That the tax effect involved in this case is above the limit laid down in Circular No. 05/2024 dated 15.03.2024 issued by the CBDT, New Delhi."

That the appellant reserves its right to add, amend or alter the ground(s) of appeal on or before the date, the appeal is finally heard.

2. Since there are common issues involved in these appeals except variation in quantum of disallowance and hence these three appeals were heard together and adjudicated by this consolidated order for brevity. The facts are discussed from ITA No. 541/Jodh/2024 (Assessment Year 2016-17) as a lead case.

3. Heard both the sides, perused the material on record, impugned orders and relevant case laws cited before us.

4. In the 1st common issue, the revenue has challenged deletion of the addition made on account of disallowance of deduction claimed u/s 35AD r.w.s. 80-IA of the Income-tax Act, 1961. The Ld. CIT(DR) submitted that the deduction claimed under section 35AD, has been disallowed by the ld. AO in the reassessment proceedings u/s 148, but the same was allowed by the NFAC/CIT(A) without appreciating the facts. The Ld. CIT (DR) contended that the AO disallowed such claim of the assessee on the ground that the report which was required to be submitted online was submitted late and therefore the mandatory condition of the section was not satisfied, and the deduction was therefore not allowable. The contention of the assessee was that it had satisfied

the requirement under the law in relation to the specified business being carried out and satisfied all the conditions for the claim of deduction u/s 35AD of the Act. All necessary audit report were duly obtained before the due date and only the online filing of report was done after due date but it was filed during the assessment proceedings, and as such the requisite due compliance was made.

5. Thus, the contention of the revenue that as per section 35AD(7) of the act, the provisions of section 80IA had been imported and it mandates the requirement of submission of the audit report as required under the Act. From the details submitted by the assessee it is stated by AO that the bifurcation of assets of the specified business cannot be ascertained. The main contention of the AO while disallowing the claim was that the necessary report was not uploaded online in due time.

6. The Ld. AR contended that the only business, the assessee had been carrying on was the specified business of running a hospital and there was no other business. The accounts of the company are duly audited and the required audit reports under the prescribed law were duly submitted during the assessment proceedings. There is no material to suggest that the assets of the company are not used for the specified business particularly when there is no

other business other than the specified business only. The assessee filed tabulated the chart indicating the compliance of the section 35AD, as under:

Requirement under section 35AD	Remarks
(i) it is not set up by splitting up, or the reconstruction, of business already in existence;	The new company was incorporated in which the entire new hospital was being established.
(ii) it is not set up by the transfer to the specified business of machinery or plant previously used for any purpose;	All assets were newly acquired for the hospital.
(iii) where the business is of the nature referred to in sub-clause (iii) of clause (c) of sub-section (8), such business	The specified business was hospital
(iv) (ab) ***on or after the 1st day of April, 2010, where the specified business is in the nature of building and operating a new hospital with at least one hundred beds for patients;***	The new hospital came up after 1.4.2010 and is more than 100 beds and is the only project of the appellant company.
(iv) Section 80IA(7) of the IT Act provides as under: *The deduction under sub-section (1) from profits and gains derived from an undertaking shall not be admissible unless the accounts of the undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant, as defined in the Explanation below sub-section (2) of section 288, and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.*	The audit under Companies Act, 2013, Tax Audit u/s 44AB and audit under section 80IA was duly carried out and copies of the audit report was duly submitted to the AO during the assessment. Claim u/s 35AD duly made in return, quantification also made in Audit Report u/s 44AB. It is also found that the assessee has submitted form 10CCB on 30.03.2021. Only online report u/s 10CCB was filed belatedly but before assessment. The ld. AO was incorrect in observing that the accounts of the specified business had not been audited. Copies of all audited financial statements were duly submitted to the ld. AO which are also submitted herewith.
Capital investment in fixed assets made during the year, for which deduction under 35AD was claimed.	Additions in capital assets during the year Rs. 2,86,16,394/39. The same is also verifiable from the schedule of additions in fixed assets.

7. The CBDT Circular dated 11/04/1955 clarify the issues further that it is the duty of the revenue to assist a taxpayer in every reasonable way, particularly in the instance of claims and securing reliefs and in the spirit of the said circular, the officers should take the initiative in guiding a taxpayer where proceedings or other particulars before them indicate that some refund or relief is due to him.

8. In the recent decision of ITAT, Pune Bench in the case of CIT vs. Audyogik Shikshan Mandal reported in (2022) 36 NYPTTJ 272 (Pune) it was held that where the audit report was filed even at the appellate state the same should be considered and deduction cannot be disallowed. Similar issue was considered by the Hon'ble Kolkata high court in case of CIT Vs. Magnum Exports Private Limited 262 ITR 10, wherein while considering the claim of the assessee under section 80 HHC of the income tax act, it was held that if the assessee failed to file such report along with the return and filed it subsequently but before completion of the assessment, it would not be fatal. In the case of "CIT v. Punjab Financial Corporation" reported in [2002] 254 ITR 61 (Punj. & Har.) (FB), it was further held that filing of audit report under section 32AB(1)/(5) along with return is not mandatory.

9. In the present case, since the assessee has also submitted the required audit report in form 10CCB to claim deduction u/s 35AD before completion of the assessment and hence a liberal construction of exemption provisions is required to be taken when the substantial compliance of the conditions had been made by the assessee. For this purpose, the AR has referred to the decisions in the case CIT vs. Poddar Cement P. Ltd. etc. (1997) 141 CTR (SC) 67 stating that even if there are two possible interpretations it is well settled, that the one which is favourable to the assessee has to be preferred. Similar view was expressed in the case of Bajaj Tempo Limited vs. CIT reported in 104 CTR (SC) 116 in which it was held that a provision in a taxing statute granting incentives for promoting growth and development should be construed liberally.

10. The CIT(A) has extensively dealt with this issue in his order and considered the various contention raised by the AO and also the submissions made by the assessee during the appellate proceedings. The summary of his findings given in the order for A.Y. 2016-17 are reproduced as under:

> *"The submissions of the appellant has been carefully perused. In the instant case, the fact that the assessee company has fulfilled all the conditions for claiming the deduction u/s 35AD and the same has not been disputed by the AO in its order. The only dispute was that the appellant had not filed the form 10CCB at the time of filing of the return of income.*

The AO initiated the reassessment proceedings and in response to the said notice the appellant filed a return of income and also form 10CCB.

At the outset, it is pertinent to note that it is well accepted principle of law that beneficial provisions should be given liberal construction and once the assessee has satisfied the conditions laid down for claiming deduction / exemption under the relevant beneficial provisions, the same should not be denied. We must always keep the object of the Act in view while interpreting the section. The legislative intention must be the foundation of the interpretation. In the case of Mother Superior Adoration Convent (2021) 126 taxmann.com 68 (SC), the Hon'ble Supreme Court held that beneficial exemption having their purpose as encouragement or promotion of certain activities should be liberally interpreted.

In the case of State of Gujarat v. S.A. Himnani Distributors P. Ltd. (2014) 43 taxmann.com 358 (Gujarat), the Hon'ble Gujarat High Court held that when State is inclined to give some tax benefit to tax payers, terms or provisions of policy should be interpreted in a liberal manner and with an intention to see that purpose for which policy is framed is fulfilled and beneficiaries is helped and the interpretation must not be such which would frustrate objective of policy.

Furthermore, in the case of CIT vs. G.M.Knitting Industries Pvt. Ltd. 376 ITR 456, the Hon'ble Supreme Court further held that even though necessary certificate in form 10CCB along with return of income had not been filed but the same was filed before final order of assessment was made, then in that case, the claim of the assessee cannot be disallowed.

Thus, in the light of above, it is clear that the appellant had fulfilled all conditions for claiming the deduction u/s 35AD and the same was not disputed by the AO in its order. Furthermore, with regard to the non filing of 10CCB, the fact that the appellant had filed the same along with the return of income filed u/s 148 of the IT Act,1961 and going by the wordings of the section 148 which states that the provisions of this Act shall so far as may be, apply accordingly as if such return were a return required to be furnished under section 139. Therefore, considering the submissions made and after perusal of the documents submitted and taking into account the entire conspectus of this case and judicial pronouncement cited above, I see no reason to uphold from the findings of the assessing officer regarding non allowance of deduction u/s 35AD. Hence, this ground of appeal is Allowed."

11. Thus, the Ld. NFAC/CIT Appeal while granting the relief has judiciously observed that policy is framed as to fulfil the object and help the beneficiary and that the interpretation must not be such which would frustrate objective of policy. The NFAC has followed the judgement delivered by Hon'ble Apex Court in the case of CIT vs. G. M. Knitting Industries (P.) Ltd. 376 ITR 456, wherein it was held that even though necessary certificate in Form 10CCB along with return of income had not been filed but same was filed before final order of assessment was made, then in that case, the claim of the assessee cannot be disallowed.

12. From the record, the facts narrated as above, it could be seen that the requirements under the act for the claim of the deduction u/s 35AD are all

satisfied in the present case. There was a new company incorporated, where the entire new hospital was being established with details of additions made in the assets of the hospital were submitted before the authorities below. The hospital came into operation with more than 100 beds after 1.4.2010. The claim was made in the original return of income and quantification of the deduction was also made in the Tax Audit Report and the financial statements submitted with the original return. The report u/s 10CCB was also obtained before the due date of filing of the original return, and only the online submissions were made subsequently but it was also made available before the assessment proceedings. Thus, all conditions had also been duly satisfied. Thus, the CIT(A) has rightly followed the decision of Hon'ble Supreme Court in the case of CIT vs. G.M. Knitting industries P. Ltd. 376 ITR 456 (SC) which is directly applicable in the given set of facts of the present case. The said case also related to deduction u/s 80IB and the report is required to be submitted in form 10CCB alongwith return wherein it was observed that if the audit report is filed before the framing of the assessment, the requirement of the provisions is met. Meaning thereby that the assessee is held to be entitled for the deduction even though it has not filed the audit report in form 10CCB online alongwith return of income. In the present case the said decision is squarely applicable.

13. Considering the factual matrix and judicial pronouncement, we find no infirmity or perversity in the order of the CIT(A), in allowing the deduction claimed by the assessee. Accordingly, we hold that the CIT(A) was justified in deleting the addition considering the facts and legal principle. Thus, 1st issue raised in the grounds of the department regarding claim of the deduction u/s 35AD in all these three years has no merits and as such, the same is dismissed.

14. The next common issue in all the three appeals relates to disallowance made from discount expenses claimed by the assessee. The AO observed that on test check basis the entire discount was not verifiable, therefore on estimate basis he made disallowance of the discount expenses at 69.82% of the total claim made by the assessee.

15. The AR of the assessee submitted before the Ld. NFAC/CIT(A) that the company came into existence in A.Y. 2015-16 and was running a hospital. These were the initial years of the hospital coming into operation and approvals with various insurance companies and government departments were being taken. The price list of various treatments were being approved by these agencies and

the patients coming under the insurance cover or under government medical health care schemes were to be charged at pre-determined rates only. The complete details of all such discount expense were submitted giving the details of patients, address and amount of discount allowed. It was also explained that some of the discount was because of certain treatment based on package which includes cost of operation, medicines, room charges or ICU etc. and the separate bills were required to be raised to these package patients, and therefore the bills raised separately were transferred to discount account. For certain patients who were admitted for long duration discount was being given on request being made by them and also considering the financial position of the patients. Some companies and insurances companies had approved list of prices and they pay according to the price list already approved, and therefore discount was being given, if there were certain charges in the bills which were higher than the price list approved by such agencies. The disallowance of 69.82 % of the total claim was not justified. The assessee submitted that the principles of averages cannot be applied in the computation of total income. It was further stated that when the regular books of accounts are maintained, which are supported by regular bill and vouchers and are audited, the same cannot be brushed aside by picking up some sample and referred to certain decision on the books of accounts and acceptability thereof. It is contented that vague and bald statement do not

render the books incomplete and incorrect of simply lack of some vouchers, non-maintenance of a particular record, does not per se render the accounts incorrect.

16. The assessee also submitted that if the expenditure is genuine the allowance of such discount should be left to the discretion of the assessee, and business decision cannot be forced upon. Looking to the volume of business being carried in the very initial year, such discount allowed merits acceptance and also referred to the decision of Hon'ble Rajasthan High Court in the case of Hindustan Coca Cola Beverages vs. CIT reported in (2018) 402 ITR 539 (Raj) in which it was held that in a competitive world to grow the business, if such expenses are incurred the same cannot be disallowed. Similarly in the case of CIT vs. Devayhi Beverages Ltd. reported in (2008) 296 ITR 41 (Del) it was held that the Tribunal has rightly noted that the CIT(A) could not assume the role of the assessee and decide what should have been the appropriate expenditure towards discount, etc.

17. The CIT(A) has considered the findings given by the Assessing Officer and the submissions made by the assessee during the appellate proceedings and after considering the submissions made had given the following findings in this regard which are reproduced hereunder:

"The submissions of the appellant has been carefully perused. At the outset, it is pertinent to understand the nature of business the appellant is into. In the instant case, the appellant is engaged in running a hospital and when it offers discount to the patients, it is surely understandable that the discounts offered to all patients cannot be the same. Every discount structure would be different to different patients depending on the ability of the patients to foot the invoice. Some might not be offered any discount as they are financially stable and some might be offered complete discount as they might be from financial poor and weak part of the society.

It is also a trite law that the Income Tax Authorities cannot step into the shoes of the businessmen to determine as to how much expenditure sold have been incurred for the purpose of business. Furthermore, it is pertinent to note that there is no dispute on the fact that the services were provided by the appellant to the patients. Furthermore, the AO no where in the order has brought on record that the claim made by the appellant was by way of fraud.

Thus, in the light of the above, considering the submissions made and after perusal of the documents submitted and taking into account the entire conspectus of this case and judicial pronouncement cited above, I see no reason to uphold from the findings of the assessing officer regarding disallowance of claim of discount. Hence this ground of appeal is allowed."

18. We have carefully considered the findings given by the CIT(A) and the arguments raised before us by both the sides. There was only a suspicion without there was being any specific assertion about the genuineness of the

discount allowed. We also appreciate that the company was in the initial years of the operation and had to establish in the city and certain incentive and discounts had to be allowed. Further the reasons given by the assessee that certain discounts were on account the price list prefixed by the insurance agencies and the bills raised, the difference was transferred to discount. We agree with the findings given by the CIT(A) that the assessee should be left to the discretion of the expenses required to be incurred by him in carrying on the business. The contention of the assessee is also supported by the decision Hon'ble Rajasthan High Court in the case of Hindustan Coca Cola Beverages vs. CIT (2018) 402 ITR 539 (Raj) and Hon'ble Delhi High Court in the case of CIT vs. Devyani Beverages Ltd. (2008) 296 ITR 41 (Del).

19. In view of above we find no infirmity in the order of CIT(A) and the ground regarding discounts raised by the revenue is therefore dismissed.

20. The only other issues which remains is in Assessment Year 2017-18 is regarding set off of losses of specified business against other income. The revenue has raised the ground that the CIT(A) was not justified in allowing set off of income of other sources of Rs. 15,17,209/- against the specified business loss when such income was from interest, rent, etc. and is not related to the specified business claimed by the assessee.

21. The contention of the department is that as per section 73A of the Act it provides that the losses of specified business are to be set off against the income of the specified business income only. The income from interest and HINO vaccination income and other income mentioned in the schedule submitted cannot be said to be the income of the specified business. This income was therefore taxed as income from other sources and not part of income of the specified business.

22. The contention of the appellant has been that the interest income was on the various security deposits given to the Government and Non-Government organization for seeking approvals under the schemes. The OPD Camp income is also received on holding medical camps at distant villages. The HINI vaccination income are all related to hospital related activities only and income of the specified business.

23. The CIT((A) observed that from the perusal of the details and submissions made, the other income is directly related to the specified business and therefore cannot be separately taxed and the losses incurred by the assessee has to be allowed set off against this income.

24. We have carefully considered the facts of the case, and the income derived, which cannot be said to be not the part of the hospital related activity.

The income is from the specified business inter-related to Hospital Business only. Meaning thereby that the income is from the business activity of specified business and therefore in our view, any loss of the specified business would be eligible for set off against this income. Thus, this ground of appeal of the revenue in respect with Assessment Year 2017-18 is rejected.

25. In the result, the revenue appeals in ITA Nos. 541,544 and 545/Jodh/2024 are dismissed.

Order pronounced on.26../.06.../2025 under Rule 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

- Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

- Sd/ -

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Dated :26./06./2025

Copies to :

(1) The appellant.
(2) The respondent.
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By Oder
Assistant Registrar,
Income Tax Appellate Tribunal,
Jodhpur Bench,
Jodhpur.