

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JODHPUR BENCH, JODHPUR  
BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER  
AND SHRI SUDHIR PAREEK, HON'BLE JUDICIAL MEMBER**

**ITA Nos. 802 and 803/Jodh/2024  
(Assessment Years – 2015-16 and 2016-17)**

<b>Mahadevia Charitable Trust C/o Ahmedabad Dental College &amp; Hospital, opp. Harkrishna Mandir Bhadaj, Ranchhodpura Road, Gandhinagar - 382115 PAN No. AAATM 6812 C</b>		<b>Commissioner of Income Tax, Appeal Udaipur – 2 Udaipur - 313001</b>
<b>Assessee by</b>	<b>Shri Amit Kothari, C.A. (Physical)</b>	
<b>Revenue by</b>	<b>Shri Lalit Kumar Bishnoi, Addl. CIT-DR (Virtual)</b>	
<b>Date of Hearing</b>	<b>28.01.2026.</b>	
<b>Date of Pronouncement</b>	<b>17.02.2026.</b>	

**ORDER**

**DR. MITHA LAL MEENA, A.M.:**

Both these appeals are filed by assessee against the order of Commissioner of Income Tax, Appeal Udaipur – 2 [hereinafter referred to as CIT(A)] even dated 30.07.2024 with respect to Assessment Years 2015-16 and 2016-17 challenging therein dismissal of the assessee's claim of depreciation.

2. There was a common issue challenged by the assessee in both the appeals regarding dismissal of the claim of depreciation by the Ld. CIT(A) and both these appeals were heard together and adjudicated by this consolidated order for sake of brevity.

3. The Ld. AR argued that the Ld. CIT(A) has wrongly dismissed the claim of depreciation under the protest that the entire value of assets has already been claimed as application of income in the earlier years, despite the fact that assessee has not claimed acquisition of asset as an application of income with respect to assessment year 2015-16 or any other previous years. The Ld. AR further submitted that the assessee had furnished complete details of copy of the computation of income, income & expenditure A/c for the Financial Year 2009-10 to 2014-15 in support of its claim that acquisition of capital assets were not treated as application of income based on charitable purposes.

4. The Ld. CIT(A) has not considered the reply of the assessee furnished in the appellate proceedings before it and arbitrarily rejected its claim. He has argued that there has been no violation of provisions of Section 13(1)(c) of the Income Tax Act to debar the assessee trust from its entitlement to the benefit of Section 11 of the Income Tax Act as observed by the AO vide Para 13 of the Assessment Order. The counsel has referred to the provision of Section 11(6) which reads as under:

*“In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any*

*asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.*

*This newly inserted section 11(6) of the Act w.e.f. A.Y. 2015-16 restricts allowance of depreciation for the purposes of application of income, as this section assumes that assessee must have taken purchase of asset itself as application of income in the year, the asset was acquired. So, it will tantamount to double claim by the assessee i.e. once on the purchase itself and then depreciation thereon.*

*We are enclosing herewith copies of the computation of income, Income & Expenditure A/c for Financial Year 2009-10 to 2014-15 as per Annexure 3. It will be observed that none of these years assessee claimed purchase of assets against application of income. Rather, the assessee carried the asset to the Balance Sheet and depreciation thereon is the only part which has been claimed as application of income consistently.”*

5. The Ld. AR for the assessee requested that the matter may be restore to the file of the AO for fresh verification of the claimed depreciation vis-a-vis application of income as per mandate after allowing due opportunity of being heard. The Ld. DR on the other hand has no objection to the request of the assessee.

6. Having considered the facts of the case and perusal of the record, we find that Ld. CIT(A) has not appraised the reply filed by the assessee in the appellate proceedings and he has confirmed the addition made by the AO in

arbitrary manner without making a reference to Section 11(6) as mentioned in the reply of the assessee which is being produced on Page No. 18 of the Ld. CIT(A).

7. In our view, the newly inserted Section 11(6) of the Act is applicable with effect from AY 2015-16 restricts allowance of depreciation for the purpose of application of income, as this Section assumes that assessee must have taken purchases of asset itself as application of income in the year, the asset was acquired. Meaning thereby, it would tantamount double claim by the assessee i.e. once on the purchase itself and then depreciation thereon. However, in the given set of the present case it does not appear so.

8. Considering the factual matrix of the case and in the interest of justice, we consider it deem appropriate to restore the matter back to the file of the AO to verify the claim of depreciation of the assessee afresh as per provisions of Section 11(6) of the Income Tax Act with reference to the documentary evidences filed on record in the form of computation of income, income & expenditure A/c for the Financial Year 2009-10 to 2014-15 in support of the claim and acquisition of capital on the issue of application of income for charitable purposes. The AO shall grant adequate opportunity of being heard

to the assessee and the assessee shall cooperate in the de novo assessment proceedings before the AO by timely compliance to the queries raised.

9. In view of the above discussion, both the impugned orders with respect to Assessment Year 2015-16 and 2016-17 are set aside and matter is restored to the file of the AO to examine the claim of the assessee in accordance with law.

10. In the result, both these appeals are allowed for statistical purpose.

**Order pronounced in the open court on 17/02/2026.**

**Sd/-**

**(SUDHIR PAREEK)  
JUDICIAL MEMBER**

**Sd/-**

**(DR. MITHA LAL MEENA)  
ACCOUNTANT MEMBER**

**Dated : 17/02/2026.**

***Nimisha Sr. PS***

*True Copy*

Copies to :

The appellant.  
The respondent.  
CIT  
CIT(A)  
Departmental Representative  
Guard File

BY ORDER,  
(Asstt. Registrar),  
**ITAT, Jodhpur**