

**01N THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW 'SMC' BENCH LUCKNOW**

SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

I.T.A. No.800/LKO/2025
Assessment year:2017-18

M/s. Eldeco Eden Park Apartment Owners Welfare & Maintenance Association, Kursi Road, Lucknow - 226022 PAN:AAAAE 4319D (Appellant)	Vs.	Income Tax Officer, Ward – 3(5), Lucknow - 226001 (Respondent)
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Appellant by	ShriK.R. Rastogi, CA
Respondent by	Shri R.R.N. Shukla, Addl. CIT-D.R.

ORDER

(A) This appeal vide I.T.A. No.800/Lkw/2025has been filed by the assessee for Assessment Year 2017-18 against impugned appellate order dated 28/01/2025 (DIN & Order No.ITBA/APLS/S/250/2024-25/1072616269(1) of Commissioner of Income Tax (Appeal) [CIT(A)], Gurugram.

(B) In this case, assessment order dated 27.11.2019 was passed whereby the assessee's total income was determined at Rs.8,06,784/- . As against returned income of NIL, the Assessing Officer made an addition of Rs.8,06,784/- on account of interest earned by the assessee on fixed deposits in bank. The assessee's appeal against assessment order was dismissed by the learned CIT(A) vide impugned

appellate order dated 28.01.2025. The relevant portion of the order of the learned CIT(A) is reproduced below:

"It contended that the Principle of Mutuality would apply to the surplus income generated by the clubs from members. However, when the surplus is invested in the form of fixed deposits with the banks, post office.. NSC, etc., it is exposed to commercial banking operations. Hence, the Principle of Mutuality would not apply.

Further In The SC, in its recent decision, has settled controversy and affirmed its earlier decision in the case of Bangalore Club in 2023 (8) TMI 925 (Secunderabad Club ETC v CIT-V ETC (2023) (Civil Appeal no. 5195-5201 of 2012) Supreme Court dated 10.10.2023 the Supreme Court has held that the principle of mutuality would not apply to interest income earned on fixed deposits made by clubs, in banks, Irrespective of whether or not the banks are corporate members of the club and would be liable to be taxed in the hands of the club."

(C) Present appeal has been filed by the assessee against aforesaid impugned appellate order dated 28.01.2025 of the learned CIT(A). In course of appellate proceeding of the Income Tax Appellate Tribunal, paper book containing the following paper books was filed from the assessee's side:

S.No.	Particulars
1	Copy of Registration Certificate of the Society
2	Copy of Income Tax Computation sheet
3	Copy of ITR Acknowledgement of AY 2017-18
4	Copy of computation of Income
5	Copy of ITR
6	Copy of Audited Balance Sheet & Income & expenditure A/c
	Case Laws
(i)	ITAT Ahmedabad SMC bench In the appeal of Venus Parkland Co-op Housing Service Society Ltd. 166 taxmann.com 673
(ii)	ITAT Hyderabad Bench- KMR Educational Society Vs ACIT reported in 55 taxmann.com 21

(D) At the time of hearing, learned Authorized Representative for the assessee submitted that reliance by the learned CIT(A) on the order of Hon'ble Supreme Court in cases of *Bangalore Club in 2023 (8) TMI 925* and on *Secunderabad Club ETC v CIT-V ETC (2023)* (Civil Appeal no. 5195-5201 of 2012) was misplaced because, as the learned AR for the assessee contended, the assessee's case was distinguishable on facts from the cases relied upon by the learned CIT(A).

(D.1) Learned D. R. placed reliance on the assessment order and on the impugned appellate order of the learned CIT(A).

(D.2) In rejoinder, learned A. R. for the assessee has placed reliance on the orders of ITAT, Ahmedabad bench in the case of *Venus Parkland Co-op. Housing Service Society Ltd. vs. ITO [2024] 166 taxmann.com 673 (Ahmedabad)* and ITAT Hyderabad in the case of *KMR Educational Society ACIT [2015] 55 taxmann.com 218 (Hyd.Trib)*. He also drew attention to facts claimed in the paper book; which however, have not been discussed by the Assessing Officer or by ld. CIT(A) in their respective orders.

(D.2.1) On perusal of the materials on record, it is found that the assessee did not get opportunity before the Assessing Officer and before the learned CIT(A) to plead or establish that the assessee's case was distinguishable, and was not covered by orders of the Hon'ble Supreme Court in the aforesaid cases of *Bangalore Club (Supra)* and *Secunderabad Club ETC v CIT-V (Supra)*. Therefore, in the fitness of

things in the light of specific facts and circumstances of the present case, the impugned appellate order of the learned CIT(A) is set aside and matter regarding the aforesaid addition of Rs.8,06,784/- is restored back to the file of the Assessing Officer, with the direction to pass denovo assessment order in accordance with law, after providing reasonable opportunity to the assessee. All the grounds of appeal treated as disposed off in accordance with the aforesaid directions.

(E) In the result, the appeal of the assessee stands partly allowed for statistical purposes.

(Order pronounced in the open court on 30.03.2026)

Sd/-
(ANADEE NATH MISSHRA)
Accountant Member

Dated : 30.03.2026

Aks/-

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Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. D.R., I.T.A.T.,