

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "SMC" BENCH: MUMBAI

BEFORE HON'BLE JUSTICE (RETD.) C. V. BHADANG, PRESIDENT
AND
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

ITA No. 5860/Mum/2025
Assessment Year : 2014-15

The Mysore Association Bombay Mysore Association 393 Bhaudaji Road Matunga S O Mumbai - 400019. [PAN: AAATT4415C]	vs.	Income Tax Officer Exemption Ward 2(4), Mumbai Room No. 503, 5 th Floor, Piramal Chamber, Lal Baug, Parel, Mumbai - 400012.
(Appellant)		(Respondent)

For Assessee :	Shri Satyaprakash Singh
For Revenue :	Shri Kavan N. Limbasiya, Sr.DR

Date of Hearing :	03-12-2025
Date of Pronouncement :	17-12-2025

ORDER

PER VIKRAM SINGH YADAV, A.M :

This is an appeal filed by the Assessee against the order of the Ld. ADDL/JCIT(A)-Agra, dated 14-08-2025, pertaining to Assessment Year (AY) 2014-15, wherein the Assessee has taken the following grounds of appeal:

"1. The order dated 14/08/2025 passed by the Hon'ble CIT(Appeal) ADDL/JCIT (A), Agra; bearing no. ITBA/APL/S/250/202526/107963 9014(1) under section 250 of the Income Tax Act, 1961 is unreasonable, arbitrary and against the provision of Income Tax Act, 1961 and therefore liable to be quashed.

2. On the facts and circumstances of the case and in law, the Hon'ble CIT(A) has erred in confirming lending of auditorium and conference hall as

commercial activity with motive of earning profit and considering the rent received from the halls as Business Income.

3. On the facts and circumstances of the case and in law, the Hon'ble CIT(A) has erred in confirming interest income of Rs.86463/-and interest transferred to funds of Rs.13,10,383 as business income and has further erred in confirming disallowance of deduction of expenditure under section 11 on objects of trust amounting to Rs.32,12,006.

4. On the facts and circumstances of the case and in law, the Hon'ble CIT(A) has erred in confirming the Life membership fees of Rs.28000 and Admission fees of Rs.450 as receipt from commercial activity.

5. On the facts and circumstances of the case and in law, the Hon'ble CIT(A) has erred in confirming miscellaneous income of Rs. 2000 and excess provision written back of Rs. 20585 as receipts from commercial activity.”

2. Briefly the facts of the case are that the assessee trust is registered u/s 12A of the Act and filed its return of income declaring total income at Nil claiming exemption u/s 11 of the Act. During the course of assessment proceedings, the Assessing officer observed that the assessee owns an auditorium and conference hall which is given on rent with the motive of earning profit and, therefore, the assessee is involved in advancement of general public utility with a profit motive and the Assessing officer thereafter denied claim of exemption u/s 11 of the Act.

3. The assessee thereafter carried out the matter in appeal before the Ld. CIT(A) who has sustained the findings of the Assessing officer and against the said order, the assessee is in appeal before us.

4. During the course of hearing, the Ld. AR submitted that the main object of the assessee trust is to foster a spirit of union, friendship and self-help among Kannadigas and to pursue cultural, social, educational

and economic advancement of Kannadigas in Mumbai and it owns a hall which is given on rent for the purposes of hosting performances and events in the field of dance, music, folk art and education activities. It was submitted that renting out of hall cannot be treated as commercial activity as the whole purpose of renting out the hall is not to earn profit but to generate funds which can be used to meet the costs towards attaining its objects. It was submitted that no adverse finding has been recorded by the AO as far as the charitable activities carried out by the assessee is concerned and, therefore, the exemption so claimed u/s 11 has been wrongly denied to the assessee which may be restored. It was further submitted that not just rental receipts, even life membership fees, admission fees, interest income on deposits, miscellaneous income and excess provision written back has been treated as commercial income and brought to tax by the AO. It was further submitted that even expenses amounting to Rs 32,12,006/- incurred on educational and charitable activities have not been allowed by the AO. It was further submitted that as per audited financial statements, the assessee has reported gross receipts of Rs. 40,55,404/- and expenses of Rs. 52,05,831/- and there is thus no surplus or profit rather there is loss of Rs. 11,50,427 which has been reported for the year under consideration. It was submitted that without prejudice to claim of exemption u/s 11, it is only the real income which can be brought to tax and given that the assessee has incurred a loss, no amount can be brought to tax for the year under consideration. It was further submitted that except for the year under consideration, in none of the other years, the exemption u/s 11 has been denied by the AO and in this regard, our reference was drawn to assessment order for A.Y. 2016-17 wherein the AO vide order dated 18.12.2018 passed u/s 143(3) of the Act has allowed the exemption u/s 11 of the Act.

5. The Ld. Sr DR has been heard who has relied on the order passed by the AO as well as that of the ld CIT(A).

6. We have heard the rival contentions and perused the material available on record. As per audited financial statements, the assessee has reported gross receipts of Rs. 40,55,404/- and expenses of Rs. 52,05,831/- and there is thus no surplus or profit rather there is loss of Rs. 11,50,427 which has been reported for the year under consideration. The AO has brought to tax whole of the gross receipts to tax and at the same time, has not allowed expenses amounting to Rs 32,12,006/- while determining the total income in the hands of the assessee. It is a settled legal proposition that it is only the net income which can be brought to tax. In the instant case, admittedly, the expenses amounting to Rs 32,12,006/- have been incurred on educational and charitable activities and there is no adverse finding recorded by the AO in the whole body of the assessment order, however, while computing the total income, he has failed to consider these expenses. In view of the admitted and undisputed position that the assessee trust has reported a loss and not a surplus/profit for the year under consideration as evident from its audited financial statements, no amount can be brought to tax for the year under consideration and the addition so made is hereby directed to be deleted.

7. In view of the same, we find that the whole discussion, as to whether renting out of hall is in nature of commercial activity or not, whether the utilization of rental receipts for meeting cost towards the objects of the trust is a relevant criteria especially in light of proviso to section 2(15) and whether by virtue of the same, the whole of the claim of exemption u/s 11

can be denied to the assessee trust, is academic in nature for the year under consideration and the same is thus left open.

8. In the result, the appeal of the Assessee is partly allowed.

Order pronounced in the open court on 17-12-2025

Sd/-
[JUSTICE (RETD) C.V. BHADANG]
PRESIDENT

Sd/-
[VIKRAM SINGH YADAV]
ACCOUNTANT MEMBER

Mumbai,
Dated: 17-12-2025

Biswajit

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai