

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B' : NEW DELHI
(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI G.S. PANNU, VICE PRESIDENT AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**

**ITA No.6249/Del/2017
Assessment Year : 2013-14**

**Income Tax Officer (E),
Ward-1(3), E-2 Block,
Room No.2419, 24th Floor,
Pratyaksh Kar Bhawan,
Civic Centre,
Jawahar Lal Nehru Marg,
New Delhi – 110 002.
(Appellant)**

**Vs. Dr. Bhai Mohan Singh Foundation,
15, Aurangzeb Road,
New Delhi – 110 011.
PAN : AAATD8105B.**

(Respondent)

Appellant by	:	Ms. Nidhi Srivastava, CIT-DR.
Respondent by	:	Shri Gaurav Jain, Advocate and Shri Himanshu Aggarwal, CA.

Date of hearing	:	08.07.2020
Date of pronouncement	:	08.07.2020

ORDER

PER G.S. PANNU, VP :

This appeal by the Revenue for the assessment year 2013-14 is directed against the order of learned CIT(A)-40, New Delhi dated 10th July, 2017.

2. In this appeal, the solitary grievance of the Revenue is enumerated in the following ground of appeal :-

“Whether on the facts and circumstances of the case and in law, the Ld.CIT(A) has erred in allowing carry forward of b/f losses as there is no provision in the statute to carry forward loss/excess application to subsequent years in

case of charitable trusts being assessed under section 11 & 12 of the IT Act.”

3. The respondent-assessee before us is a trust registered under Section 12A of the Income-tax Act, 1961. In the course of assessment proceedings, the Assessing Officer noted that assessee had claimed the benefit of adjustment of the carried forward deficit of the earlier year amounting to ₹7,87,85,919/- while determining the assessable income for the year under consideration. The Assessing Officer took the view that the excess expenditure incurred by the trust in the earlier years (which had resulted in the deficit), could not be adjusted against the income of the current year inasmuch as the same could not be treated as an application of the income of the current year. In this manner, the Assessing Officer assessed the total income at ₹7,87,85,919/-, being the excess of income over expenditure for the current year.

4. In appeal before the learned CIT(A), assessee canvassed that the action of the Assessing Officer in not allowing the adjustment of deficit carried forward from earlier years was expressly contrary to the law laid down by the Hon'ble Jurisdictional High Court of Delhi in the case of DIT Vs. Raghuvanshi Charitable Trust & Others – [2011] 197 Taxman 0170 (Delhi). It is seen from a perusal of the order of the learned CIT(A) that the plea of the assessee was supported by various other judgements, viz., CIT Vs. Institute of Banking Personnel Selection – 264 ITR 110 (Bombay), CIT Vs. Shri Plot Swetamber Murti Pujak Jain Mandal – 211 ITR 293 (Gujarat), CIT Vs. Matriseva Trust – 242 ITR 20 (Madras) and CIT Vs. Maharana of Mewar Charitable Foundation – 164 ITR 439 (Rajasthan).

5. Considering all the aforesaid and specially the judgment of Hon'ble High Court of Delhi in the case of Raghuvanshi Charitable Trust

(supra), learned CIT(A) set aside the action of the Assessing Officer and allowed the plea of the assessee for setting-off of carried forward amount of deficit of earlier years in order to compute the assessable income for the year under consideration. Against such a decision, Revenue is in appeal before us as per the aforestated Ground of appeal.

6. Before us, it was a common ground between the parties that the legal position laid down by the Hon'ble High Court of Delhi in the case of Raghuvanshi Charitable Trust (supra) continues to hold the field. In fact, the learned counsel for the assessee brought to the notice of the Bench that Hon'ble Supreme Court in the case of CIT(E) Vs. Subros Educational Society – [2018] 303 CTR 1 (SC) has impliedly affirmed the position of law enumerated by the Hon'ble High Court of Delhi while considering a similar question raised by the Revenue before it, as the Hon'ble Supreme Court did not find any merit in the same.

7. In view of the aforesaid, the order of learned CIT(A) is hereby affirmed and the appeal of the Revenue is dismissed.

8. In the result, the appeal of the Revenue is dismissed.

Above decision was announced in the presence of both the parties on conclusion of Virtual Hearing today, i.e., 8th July, 2020.

Sd/-

(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Sd/-

(G.S. PANNU)
VICE PRESIDENT

VK.

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1. Appellant : **Income Tax Officer (E), Ward-1(3), E-2 Block,
Room No.2419, 24th Floor, Pratyaksh Kar Bhawan,
Civic Centre, Jawahar Lal Nehru Marg,
New Delhi – 110 002.**
2. Respondent : **Dr. Bhai Mohan Singh Foundation,
15, Aurangzeb Road, New Delhi – 110 011.**
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar