R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 1160 OF 2017

Commissioner of Income Tax (Exemptions) .. Appellant

Versus

Shri Ram Nagar Trust No. 1 .. Respondent

....

- Mr. Suresh Kumar for the Appellant
- Mr. Madhur Agarwal i/by Ruturaj H. Gujar for the Respondent

....

CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE : JUNE 18, 2019.

P.C.:

1. This appeal is filed by the Revenue to challenge the judgment of the Income Tax Appellate Tribunal, Mumbai ("the Tribunal" for short) dated 31.5.2016

2. Following question is presented for our consideration:-

"Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in holding that the assessee Trust is entitled for the benefit of accumulation of income u/S. 11(2) of the I.T. Act, ignoring the fact that the assessee Trust has not specifically pointed out the particular purpose as per objects for accumulation and hence, not fulfilled the condition fully as required by Section 11(2)(a) of the I.T. Act?"

3. Respondent - assessee is a Trust registered under the Public Trust Act and enjoys registration under Section 12A of the Income Tax Act, 1961 ("the Act" for short). For the assessment year 2010-11, the assessee had filed return of income which reflected receipt of Rs. 2 Crores arising out of the settlement of civil suit filed by the Trust in respect of an immovable property. Under such settlement, the assessee had agreed to withdraw the suit upon being paid the sum of Rs. 2 Crores. The assessee contended that the receipt was capital receipt and not exigible to tax alternatively out of said, sum of Rs. 1.89 Crores (rounded off) was accumulated for the purpose of trust. The assessee claimed benefit under Section 11(2) of the Act. The Tribunal by the impugned judgment held in favour of the assessee upon which the Revenue has filed this appeal. The grounds of objections of the Revenue are two fold. Firstly, that the return in Form 10 was not filed along with the return and that the accumulation of the income was merely with the specification "for Future Project". According to the Revenue, this was too general and did not specify the purpose for which the funds will be utilized in future.

4. Tribunal overruled both the objections. It was held that the declaration under 10B was duly filed during the course of the assessment. Further, before the CIT(A), the assessee pointed out that its principal activity is of setting up and managing hospitals. It had ongoing projects costing more than Rs. Thousand Crores. A sum of Rs. 1.89 Crores will be utilized for such purpose. The Tribunal relied on various decisions including that of Delhi High Court in case of **CIT V/s. Hotel and Restaurant Association**[1] to hold that the requirement of accumulation of the fund for specific purpose must be viewed in light of the ongoing projects of the Trust. The Tribunal noted that the assessee had undertaken the hospital projects with considerable capital expenditure. The prescription of accumulating the said amount for its further projects must be seen in light of such ongoing project. We do not see any error in the view of the Tribunal. No question of law arises. The appeal is dismissed.

[S.J. KATHAWALLA, J.] **[AKIL KURESHI, J]**

1 [2003] 261 ITR 190 (Del)