IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 931 OF 2018

Commissioner of Income Tax-(E), Pune ... Appellant

Versus

Pimpri Chinchwad Education Trust ...Respondent

***

Mr.Suresh Kumar, Advocate for appellant.

CORAM : DHIRAJ SINGH THAKUR &
KAMAL KHATA, JJ.

DATE : 13th JANUARY, 2023.

P C :

1. This is an appeal under section 260A of the Income Tax Act, 1960 ('the Act') against the order dated 4th May 2017 passed by the Income Tax Appellate Tribunal, Pune ('ITAT').

2. The following questions of law have been framed for our consideration :

> (i) Whether in the facts and circumstances of the case and in law, the ITAT is right in allowing the appeal of the assessee by ignoring the facts that assessee society like charitable or religious institutions are governed by almost separate or independent provisions of Sections 11, 12, 12A, 12AA & 13 and these provisions are independent Code in itself in Chapter III of the Income Tax Act, 1961 and claim of depreciation u/s 32 comes under Chapter IV of the Act under the head 'D' – Profit and Gains of Business or Profession and depreciation is allowed when

capital assets are used for the purpose of business?

(ii) Whether in the facts and circumstances of the case and in law, the ITAT is right in allowing the appeal of the assessee by ignoring the facts that assessee is not eligible for any type of depreciation as the entire expenditure for the purchase of capital assets is allowed as a deduction and the same is treated as application of income u/s 11(1) and claiming depreciation on the same capital assets is a double deduction and is not as per law as these capital assets are also been challenged in various cases before the Apex Court.

3. Learned counsel for the appellant fairly states that the questions of law have already been answered by the Apex Court in ***Commissioner of Income Tax-III, Pune Vs. Rajasthan & Gujarati Charitable Foundation Poona*** [1]***.***

4. Be that as it may, no substantial question of law arises in the appeal.

5. The appeal is accordingly dismissed.

[KAMAL KHATA, J.] **[DHIRAJ SINGH THAKUR, J.]**

1 [2018] 89 taxmann.com 127 (SC)