

IN THE INCOME TAX APPELLATE TRIBUNAL “E” BENCH, MUMBAI
BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT AND
SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER

ITA No.4282, 4283, /Mum/2024
 (Assessment Years:2014-15, 2013-14,)

Tata Education Trust, Bombay House, 24, Homi Mody Street, Fort, Mumbai-400001	Vs.	Deputy Commissioner of Income Tax, (Exemptions), Circle-2(1), Mumbai
(Appellant)	:	(Respondent)
PAN NO. AAATT 9835A		

ITA No.4156, 4496, 4727 & 4835/Mum/2024
 (Assessment Years:2015-16, 2016-17 & 2017-18)

Tata Education Trust, Bombay House, 24, Homi Mody Street, Fort, Mumbai-400001	Vs.	Asst. Commissioner of Income Tax-17(3) Kautilya Bhavan, Bandra Kurla Complex, Mumbai-400 051
(Appellant)	:	(Respondent)
PAN NO. AAATT 9835A		

ITA No.4852, 4419, 4873 /Mum/2024
 (Assessment Years:2013-14, 2014-15 and 2017-18)

Asst. Commissioner of Income Tax- 26(1), Room No. 249, 2 nd Floor Kautilya Bhavan, BKC, Mumbai-400 051	Vs.	Tata Education Trust, 2 nd Floor, Bombay House, 24, Homi Mody Street, Fort, Mumbai-400001
(Appellant)	:	(Respondent)
PAN NO. AAATT 9835A		

Appellant by	:	Shri P.J. Pardiwala a/w Shri Sukhsagar Syal & Shri Atul Suraiya
Respondent by	:	Shri Ritesh Mishra, CIT DR
(Appellant)		(Respondent)

Date of Hearing	:	29.09.2025
Date of Pronouncement	:	10.10.2025

O R D E R

Per Saktijit Dey, Vice President:

Captioned are bunch of nine appeals both by the assessee and the Department relating to the same assessee arising out of separate orders passed by National Faceless Appel Centre (NFAC), Delhi pertaining to Assessment Years (AYs) 2013-14, 2014-15, 2015-16, 2016-17 and 2017-18. Since common issues arise in all these appeals, they have been clubbed together and disposed of by this consolidated order for the sake of convenience.

ITA No. 4283/Mum/2024 (Assessee's appeal) A.Y. 2013-14

2. Effective grounds raised by the assessee are as under:-
 - “1. *On the facts and under the circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeals) ['Ld. CIT(A)'] erred in, upholding the order under section 143(3) of the Act, inasmuch as it is alleged that the provisions of section 13(2)(h) are attracted in the present case.*
 2. *On the facts and under the circumstances of the case and in law, the Ld. CIT(A) erred in upholding denial of exemption u/s 10(34) of the Act to dividend income of Rs. 12,06,00,000/-and u/s 10(35) of the Act to the income from units of Rs. 32,504/-, inclusion of the same for the purpose of section 11 of the Act and holding that the same is chargeable at maximum marginal rate.*
 3. *On the facts and under the circumstances of the case and in law, the Ld. CIT(A) erred in disallowing carry forward of deficit of Rs. 10,04,20,531/- for adjustment in subsequent years.*
 4. *On the facts and under the circumstances of the case and in law, the Ld. CIT(A) erred in upholding levy of interest under section 234B and 234C of the Act on the additions not envisaged by the Appellant.*

5. *On the facts and under the circumstances of the case and in law, the Ld CIT(A) erred in passing the order without considering the submissions on record and without application of mind.”*

3. At the outset, learned counsel appearing for the assessee submitted that in case Ground No.2 is decided in favour of the assessee, Ground No.1 would become academic, hence, he made a request to proceed with Ground No.2. Learned Departmental Representative (DR) did not object.

4. In view of the aforesaid, at the very outset, we propose to deal with Ground No.2, which relates to denial of claim of exemption under Section (u/s.) 10(34)/10(35) of the Income Tax Act, 1961 (n short the ‘Act’) in respect of dividend income earned of Rs.12,06,00,000/- and income from units amounting to Rs.32,504/- respectively.

5. Briefly the facts are, assessee is a Charitable Trust registered u/s. 12A of the Act. For the assessment year under dispute, assessee had filed its return of income, declaring NIL income. In course of assessment proceeding, Assessing Officer (AO) while verifying the return of income and financial statements noticed that the assessee had invested an amount of Rs.21,96,667/- in 15,075 ordinary shares of Tata Sons Ltd. and during the year had received dividend of Rs.120,6,00,000/-, which has been claimed as exempt u/s. 10(34) of the Act. Being of the view that the investment in shares is prohibited u/s. 13(1)(d) as well as Section 11(5) of the Act, the AO held that the assessee is not eligible to claim exemption u/s. 11 of the Act. He further held that by investing in shares of Tata Sons Ltd. the assessee has also violated the

conditions of Section 13(2)(h) of the Act as Shri Ratan Tata being one of the trustees had invested funds in a concern where he was Chairman. Based on such reasoning, the AO rejected assessee's claim of exemption u/s. 11 of the Act and proceeded to compute the income on commercial principle and brought them to tax at the maximum marginal rate. While doing so, he also denied assessee's claim of exemption u/s. 10(34) and 10(35) of the Act in respect of dividend income and units of mutual fund on the reasoning that assessee's case is covered u/s. 11, 12 and 13 of the Act.

6. Being aggrieved with such decision of the AO, assessee preferred an appeal before learned First Appellate Authority. While deciding the appeal, the First Appellate Authority in principle agreed with the reasoning of the AO that once assessee is covered u/s. 11 of the Act it is not entitled to claim exemption u/s. 10(34) and 10(35) of the Act. He also agreed with the AO that the assessee did violate the conditions of Section 13(1)(d) and 13(2)(h) of the Act. Thereafter, relying upon a decision of Hon'ble Madras High Court in case of *CIT vs. Working Women's Forum* [2015] 53 taxmann.com 85 (Madras), the First Appellate Authority held that once claim of exemption in respect of a particular item of income is rejected, income has to be taxed at the maximum marginal rate. However, granting partial relief to the assessee, the First Appellate Authority held that the maximum marginal rate would apply only to dividend income of Rs.10,55,25,000/- as it is in violation of Sections 13(1)(d) and 13(2)(h) of the Act. In so far as interest income of Rs.74,48,000/- and

other income of Rs.1,93,53,844/- are concerned, the First Appellate Authority held that it should be taxed at normal rate.

7. Before us, learned counsel appearing for the assessee submitted, assessee's claim of exemption u/s. 10(34) and 10(35) of the Act in respect of dividend income and units of mutual fund cannot be rejected merely because the assessee is a trust registered u/s. 12A of the Act and claiming exemption u/s. 11 of the Act. He submitted, the First Appellate Authority has wrongly applied the decision of the Hon'ble Madras High Court in case of *CIT vs. Working Women's Forum* (Supra) to reject assessee's claim of exemption u/s. 10(34) and 10(35) of the Act as it was never an issue before the Hon'ble Madras High Court. He submitted, in fact, Sections 10(34) and 10(35) were not even in the statute in A.Ys. 2001-02 and 2003-04 dispute for which arose in case of *CIT vs. Working Women's Forum* (Supra). On the contrary, he submitted, in assessee's own case in A.Y. 2012-13, the Coordinate Bench has decided the issue in favour of the assessee while holding that the assessee can claim exemption u/s. 10(34) and 10(35) of the Act. In this context, he placed on record a copy of order dated 14.06.2022 passed in ITA No. 3080/Mum/2018 and others in case of *Tata Education Trust vs. ITO (Exemption), Mumbai*. Learned DR agreed that the issue is covered by the decision of the Coordinate Bench relied upon by the assessee. However, he supported the reasoning of the Departmental Authorities.

8. We have considered rival submissions and perused the materials on record. The short issue arising for consideration is whether in case of a Charitable Trust

registered u/s. 12A of the Act and eligible for claiming exemption u/s. 11 of the Act no exemption u/s. 10(34) and 10(35) of the Act is admissible. We find identical issue arose in assessee's case in AY 2012-13 and while deciding the issue in the order referred to above, the Coordinate Bench has held as under:-

“4. We note from perusal of the aforesaid grounds that the revenue is aggrieved by the action of the Ld. CIT(A) deleting the action of the AO denying exemption claimed by the assessee u/s 10(34) of the Income Tax Act, 1961(hereinafter “the Act”) on the dividend income received by the assessee trust.

5. At the outset, the Ld. AR of the assessee drew our attention to the fact that in the assessee's own Group trust case an identical issue arose, and the AO's similar action of denying the exemption claim u/s 10(34) of the Act in respect of dividend income was not accepted by the Ld. CIT(A), who was pleased to allow the same. Against the action of Ld. CIT(A), the revenue preferred similar/identical grounds of appeal raised (supra) in the present assessee's case/appeals before this Tribunal, and the Tribunal upheld the action of Ld. CIT(A). For that the Ld. AR drew our attention to the decision of Tribunal in assessee Group trust case i.e. M/s. Navajbhai Ratan Trust (ITA. No.1301/Mum/2018 for A.Y.2011-12), ITA. No.1316/Mum/2018 for A.Y.2011-12, ITA. No.1302/Mum/2018 for A.Y.2012-13, ITA. No.1314/Mum/2018 for A.Y.2012-13, ITA. No.2115/Mum/2018 for A.Y.2013-14, ITA. No.2161/Mum/2018 for A.Y.2013-14, ITA. No.2116/Mum/2018 for A.Y.2014-15 & ITA. No.2162/Mum/2018 for A.Y.2014-15 wherein the cross appeals/appeal preferred by the revenue has been dismissed by this Tribunal by order dated 10.03.2022 wherein similar grounds appeal was raised by the revenue for A.Y.2011-12 which reads as under: -

“(i) On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in allowing exemption u/s.10(34) of the Income tax Act to the tune of Rs.115,47,80,338/- on the dividend received on shares without appreciating the fact that the income derived by the assessee trust is from the properties held under the trust and claimed exemption u/s. 11 of the I.T. Act.

(ii) On the facts and circumstances of the case and in law, the Ld CIT(A) erred in allowing exemption u/s.10(34) of the Income tax Act to the tune

of Rs. 115,47,80,338/- on the dividend received on shares without appreciating the fact that the income derived by the assessee trust is from the properties held under the trust and claimed exemption u/s. 11 of the I T Act which is denied by the AO due to violation of provisions of section 13(l)(d) and 13(2)(h) of the Act. The violation of section 13 has not changed the status of the Trust i.e, from being Trust to private person. The violation of section 13 has changed the nature of the income i.e. from being the income derived from the property held under Trust to Private Income. The assessee claimed alternative exemption u/s. 10(34) which was not allowed by the AO because section 10(34) does not deal with income derived from property held under trust.

(iii) *On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in allowing exemption u/s.10(34) of the Income tax Act to the tune of Rs.115,47,80,338/- on the dividend received on shares without appreciating the fact that the income derived by the assessee trust is from the properties held under the trust and claimed exemption u/s. 11 of the I T Act. Section 11 starts with the words "income derived from property held under Trust" which means that section which exclusively deals with income derived from property held under trust is section 11 and not any other section. The assessee trust cannot claim alternative exemption under section 10(34) because section 10(34) does not deal with income derived from property held under trust.*

(iv) *On the facts and circumstances of the case and in law, the Ld CIT(A) erred in allowing depreciation without appreciating the fact that the assessee has claimed the deduction twice. The assessee trust claimed depreciation and also capital expenditure viz addition to fixed assets in the computation of income which amounted to double deduction.*

(v) *The appellant prays that the order of the A.O. should be restored and order of the CIT(A) should be set aside."*

6. *From a perusal of the aforesaid grounds raised by the revenue in the Group Trust case Navajbhai Ratan Trust (supra), we find that similar grounds of appeal has been raised by the revenue in the present both appeals before us. We further note that the aforesaid grounds raised by the revenue has been adjudicated in assessee's favour by this Tribunal holding as under: -*

"11. The first issue to be decided in Revenue's appeal is with regard to the claim of exemption under section 10(34) of the Act on dividend income received on shares by the assessee.

11.1 The brief facts of the case pertaining to this issue as emanating from record are: During the year under consideration, the assessee trust had received dividend income of Rs. 115,47,80,338 which was claimed as exempted under section 10(34) of the Act.

11.2 The AO vide order dated 18.03.2014 held that the assessee trust is not entitled to claim exemption under section 10(34) as assessee's entire income derived from the property held under trust is governed by the provision of section 11 of the Act. The AO further held that once there is violation under section 13 and as a result of same, exemption under section 11 is denied, assessee cannot claim alternative exemption under section 10(34) because section 10(34) of the Act does not deal with income derived from property held under trust.

11.3 In appeal against the aforesaid disallowance, the CIT(A) vide order dated 18.12.2017 following the decision of Hon'ble Jurisdictional High Court in the case of DIT (Exemption) v. Jasubhai Foundation: 374 ITR 315, interalia, allowed the appeal of the assessee and directed the AO to grant benefit of provision of section 10(34) of the Act in respect of dividend income of Rs. 115,47,80,338.

11.4 Being aggrieved by aforesaid findings of the CIT(A), Revenue is in appeal before us. It is pertinent to note that section 10 and section 11 of the Act fall under the Chapter III which deals with "Incomes which do not form part of Total Income". Section 10 deals with incomes not included in total income whereas section 11 deals with income from property held for charitable or religious purpose. Accordingly, where income is already required to be excluded by virtue of section 10 (in case of dividend), the same cannot be brought within the ambit of section 11 of the Act. In respect of similar issue, Hon'ble Jurisdictional High Court in the case of Jasubhai Foundation (supra), observed as under:- ".....We have not found anything in the language of the two provisions nor was Mr. Malhotra able to point out as to how when certain income is not to be included in computing total income of a previous year of any person, then, that which is excluded from section 10 could be included in the total income of the previous year of the person/assessee. That may be a person who receives or derives income from property held under trust wholly for charitable or religious purposes."

11.5 It is pertinent to note that vide Finance (No.2) Act, 2014, sub-section (7) was inserted in section 11 of the Act whereby it has been provided that benefits of exemption provided in section 10 shall not be available to any Trust/Institution registered and claiming the benefit of

section 11 of the Act. This amendment was brought w.e.f. 1st April, 2015 and therefore, is only applicable to assessment year 2015-16 and onwards. Thus, respectfully following the aforesaid decision of Hon'ble Jurisdictional High Court, order passed by the CIT(A), inter-alia, granting benefit of exemption under section 10(34) of the Act in respect of dividend income received by assessee is upheld. Accordingly, ground nos. (i) to (iii) raised in Revenue's appeal are dismissed.

7. Respectfully following the ratio of the decision of this Tribunal in Group Trust case i.e. M/s. Navajbhai Ratan Trust (supra), we are inclined to follow it since the department could not point out any change in facts or law. So on the same reasoning mutandis mutandis, we concur with the action of the Ld. CIT(A) allowing the claim of exemption u/s 10(34) of the Act and dismiss the ground nos. 1, 2 & 4 of the revenue appeal."

9. No contrary decision has been brought to our noticed by the Department. Facts being identical, respectfully following the decision of the Coordinate Bench, we hold that assessee's claim of exemption u/s. 10(34) and 10(35) of the Act in respect of dividend income and income from units should be allowed. The AO is directed to do so. This Ground is allowed.

10. In Ground No.3, the pertinent issue arising for consideration is whether the deficit arising due to excess expenditure/application of funds towards charitable purpose can be carried forward for adjustment/set off against the income of the subsequent years.

11. Briefly, the facts are, as a result of denial of assessee's claim of exemption u/s. 10(34) and 10(35) of the Act in respect of dividend income and income from units, the AO treated it as income of the trust, which was required to be applied as per the limit set out u/s. 11 of the Act. Since the application of funds/income fell short of 85% threshold limit, the AO treated it as violation of Section 11 of the Act

and denied claim of exemption u/s.11 of the Act, learned First Appellate Authority approved the decision of the AO.

12. Before us, learned counsel appearing for the assessee submitted, once assessee's claim of exemption u/s. 10(34) and 10(35) of the Act is accepted, the resultant deficit arising out of excess application/expenditure of funds/income for charitable purpose has to be carried forward for set off against income of subsequent years. In support of such contention, learned counsel relied upon the following decisions:

- (i) CIT (Exemption) vs. Subros Educational Society. [2018] 166 DTR 257 (SC).
- (ii) DCIT vs. Sir Dorabji Tata Trust and another ITA No.3163/Mum/2018 and others dated 19.07.2019.

13. Learned DR relied upon the observations of learned First Appellate Authority.

14. We have considered rival submissions and perused the materials on record.

Notably, while considering identical issue in case of *DCIT vs. Sorab Ji TATA Trust* (Supra) the Coordinate Bench has held as under:

"9. We have considered rival submissions and perused the material on record. We have also applied our mind to the decisions relied upon. Undisputedly, during the year under consideration the assessee has applied more than 85% of its income/funds towards charitable purpose. As a result of which there was a deficit in the allowable surplus/accumulation of fund as provided under section 11(1)(a) of the Act. The aforesaid deficit of fund was carried forward by the assessee to the subsequent assessment year for set-off against the income of the subsequent year. The issue before us is, whether the aforesaid claim of the assessee is permissible. As could be seen, this issue was initially decided by the Hon'ble Jurisdictional High Court in Institution of Banking Personnel Selection Services (supra). Subsequently, identical view was also expressed by the Hon'ble Jurisdictional High Court in Gem and Jewellery Exports Promotion Council (supra). Following the aforesaid decision of the Hon'ble Jurisdictional High Court, different Benches of the Tribunal,

including Mumbai Bench, have decided the issue in favour of the assessee. In fact, in assessee's own case for the assessment year 2008-09, in ITA no. 172/Mum./2013, dated 20th March 2014, the Tribunal following the aforesaid decisions of the Hon'ble Jurisdictional High Court has decided the issue In favour of the assessee. Pertinently, while deciding the appeal filed by the Revenue against the aforesaid decision of the Tribunal, the Hon'ble Jurisdictional High Court in ITA no.1589 of 2014, dated 6th March 2017, has upheld the decision by dismissing the appeal of the Revenue. As regards the contention of the Revenue that in case of MIDC, the SLP by the Revenue on identical issue is pending before the Hon'ble Supreme Court, we must observe, while deciding the SLP filed by the MIDC along with a bunch of similar appeals, the Hon'ble Supreme Court in CIT v/s Rajasthan and Gujarati Charitable Foundation Poona &Ors., have approved the decision of the Hon'ble Jurisdictional High Court in Institution of Banking Personnel Selection Services (supra) and various decisions of the Hon'ble High Courts expressing similar view. In fact, the issue was set at rest by the Hon'ble Supreme Court while deciding the misc. application filed by the Revenue in Subros Educational Society, vide M.A. no.941 of 2018, in Civil Appeal no.5171 of 2016, in order dated 16th April 2018, observing as under:-

"In this application filed by the Income Tax Department it is stated that Civil Appeal no.5171 of 2016 arises out of Special Leave Petition (C) ... CC no.8982/2016 was tagged with other appeals and the batch matters were decided by this Court on 13.12.2017. However, the following question was also raised in this instant appeal which was not the subject matter of these appeals.

"(a) whether any excess expenditure Incurred by the trust/ charitable institution in earlier assessment year could be allowed to be set off against income of subsequent years by invoking section 11 of the Income-tax Act, 1961."

To this extent, Mr. K. Radhakrishnan, learned senior counsel appearing on behalf of the applicant/appellant is correct. Therefore, we have heard him on the aforesaid question of law as well but did not find any merit therein.

The miscellaneous application is dismissed."

10. *In view of the aforesaid, since the issue in dispute stands concluded in favour of the assessee, we do not find any merit in the grounds raised by the Revenue. Grounds raised are dismissed."*

15. Facts being identical, respectfully following the decision of the Coordinate Bench, we allow carry forward of deficit for setting off against the income from subsequent year. This ground is allowed.

16. In so far as Ground No.1, relating to alleged violation of Section 13(1)(d) and 13(2)(h) of the Act is concerned, learned counsel appearing for the assessee submitted that though in assessee's case in AY 2012-13 (Supra), the coordinate Bench has decided the issue in favour of the assessee, however, for the purpose of present appeal the issue will become academic, in case assessee's claim of exemption u/s. 10(34) and 10(35) of the Act in respect of dividend income and income from units is allowed.

17. Learned DR agreed with the aforesaid submission of the assessee. Since we have allowed assessee's claim of exemption u/s. 10(34) and 10(35) of the Act raised in Ground No.2, the Ground No.1 for the purpose of present appeal having become academic is kept open.

18. Ground No.4 being consequential in nature does not require specific adjudication.

19. In the result, appeal is partly allowed.

ITA No. 4852/Mum/2024 (Revenue's appeal) A.Y. 2013-14

20. Grounds raised by the Department are as under:

"1. 1. "Whether, on the facts and in the circumstances of the case, the Ld. CIT(A) is justified in allow the assessee appeal despite the fact that there is violation of provisions of section 13(1)(d) of the LT. Act because of the investment by the Trust in prohibited mode of investment that it would lead?"

2. *"Whether, on the facts and in the circumstances of the case, the Ld. CIT(A) is justified in allow the assessee appeal despite the fact that assessee cannot claim alternative exemption under section 10(34/35/38) because section 10(34/35/38) does not deal with income derived from property held under trust. Clearly in this case, section 164(2) is attracted".*
- 2 *"Whether the Ld. CIT(A) is justified in ignoring that the investment made by the assessee in the shares of Tata Sons Ltd. is in clear violation of the provisions of the Section 13(1)(d) of the Income Tax Act, 1961 and ignoring the decision of Hon'ble Supreme Court in the case of Bharat Diamond Bourse, (259 ITR 280), wherein, in similar circumstances the complete denial of exemption u/s 11 of the Act. was upheld?"*

21. There is a delay of 25 days in filing the appeal. After considering the submissions of learned DR, we are satisfied that the delay in filing the appeal was due to reasonable cause. Hence, we condone the delay and admit the appeal for adjudication.

22. We have heard the parties and perused the materials on record. After carefully going through the order of learned First Appellate Authority, we are of the view that the grounds raised by the Department are thoroughly misconceived as no relief with regard to assessee's claim of exemption either Section 11 or Sections 10(34) and 10(35) of the Act has been allowed by the First Appellate Authority. In fact, the order of the First Appellate Authority clearly demonstrates that he has agreed with the AO with regard to violation of Section 13(1)(d) and 13(2)(h) of the Act. Even, he has accepted the decision of the AO with regard to denial of claim of exemption u/s. 10(34) and 10(35) of the Act. Only relief granted by the First Appellate

Authority is with regard to rate of tax on interest income and other income, which were outside the purview of violation of Sections 13(1)(d) and 13(2)(h) of the Act.

23. In view of aforesaid, we do not find merit in the grounds raised. Hence dismissed.

24. In the result, Revenue's appeal is dismissed.

ITA No. 4282/Mum/2024 (Assessee's appeal) A.Y. 2014-15

25. Effective grounds raised by the assessee are as under:

“1. On the facts and under the circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeals) [‘Ld. CIT(A)’] erred in upholding the order under section 143(3) of the Act, inasmuch as it is alleged that the provisions of section 13(2)(h) are attracted in the present case.

2. On the facts and under the circumstances of the case and in law, the Ld. CIT(A) erred in upholding denial of exemption u/s 10(34) of the Act to dividend income of Rs. 12,06,00,000/- and u/s 10(35) of the Act to income from units of Rs. 33,659/-, inclusion of the same for the purpose of section 11 of the Act and in holding that the same is to be taxed at maximum marginal rate.

3. On the facts and under the circumstances of the case and in law, the Ld. CIT(A) erred in upholding levy of interest under section 234A, 234B and 234C of the Act on the additions not envisaged by the Appellant.”

26. Ground No.1 is identical to Ground No. 1 of ITA No. 4883/Mum/2024 decided by us earlier in this order. Following our decision therein, this ground is kept open.

27. Ground No.2 relates to denial of exemption u/s. 10(34) and 10(35) of the Act in respect of dividend income and income from units. This ground is identical to

Ground No.2 of ITA No. 4283/Mum/2024. Following our decision therein, we direct the AO to allow assessee's claim of exemption. This ground is allowed.

28. Ground No.3 being consequential in nature does not require adjudication.
29. In the result, appeal is partly allowed.

ITA No. 4419/Mum/2024 (Revenue's appeal) A.Y. 2014-15

30. Grounds raised by the Department are as under:

- “1. 1. *Whether, on the facts and in the circumstances of the case, the Ld. CIT(A) is justified in allow the assessee appeal despite the fact that there is violation of provisions of section 13(1)(d) of the I.T. Act because of the investment by the Trust in prohibited mode of investment that it would lead?"*
2. *2. "Whether, on the facts and in the circumstances of the case, the L.d. CIT(A) is justified in allow the assessee appeal despite the fact that assessee cannot claim alternative exemption under section 10(34/35/38) because section 10(34/35/38) does not deal with income derived from property held under trust. Clearly in this case, section 164(2) is attracted" 3. "Whether the Ld. CIT(A) is justified in ignoring that the investment made by the assessee in the shares of Tata Sons Ltd. is in clear violation of the provisions of the Section 13(1)(d) of the Income Tax Act, 1961 and ignoring the decision of Hon'ble Supreme Court in the case of Bharat Diamond Bourse, (259 ITR 280), wherein, in similar circumstances the complete denial of exemption u/s 11 of the Act. was upheld?"*

31. We have heard the parties and perused the materials on record. After carefully going through the order of the First Appellate Authority, we are of the view that the grounds raised by the Department are thoroughly misconceived as no relief with regard to assessee's claim of exemption either Section 11 or Sections 10(34) and 10(35) of the Act has been allowed by the First Appellate Authority. In fact, the order of the First Appellate Authority clearly demonstrates that he has agreed with

the AO with regard to violation of Section 13(1)(d) and 13(2)(h) of the Act. Even he has accepted the decision of the AO with regard to denial of claim of exemption u/s. 10(34) and 10(35) of the Act. Only relief granted by the First Appellate Authority is with regard to rate of tax on interest income and other income which were outside the purview of Sections 13(1)(d) and 13(2)(h) of the Act.

32. In view of aforesaid, we do not find merit in the grounds raised. Hence dismissed.

33. In the result, Revenue's appeal is dismissed.

ITA No. 4156/Mum/2024 (Assessee's appeal) A.Y. 2015-16

34. Grounds raised by the assessee are as under:

- “1. *On the facts and circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeals) ('Ld. CIT(A)') erred in concluding that the registration of the Trust under section 12A of the Income-tax Act, 1961 (Act') was still in force in complete disregard of the order passed by the Hon'ble Income Tax Appellate Tribunal in its own case which had held that its registration had ceased with effect from 20th March, 2015*
- 2. *The Id. CIT(A) ought to have held that the provisions of sections 11 to 13 of the Act are not applicable to the Appellant as its registration u/s. 12A of the Act had been surrendered.*
- 3. *Without prejudice to the above, if the CIT(A) was of the opinion that the Appellant's registration was active (contrary to the Tribunal's order), it should have granted the Appellant the benefit of section 11 of the Act.*
- 4. *The Ld. CIT(A) erred in upholding the Assessing Officer's order denying the exemption on the Dividend income and Income from units under section 10(34) and 10(35) of the Act respectively.*

5. *The Ld. CIT(A) erred in not reversing the AO's order inasmuch as he has denied a part of the Appellant's claim of deduction u/s. 80G of the Act.*
6. *The Ld. CIT(A) erred in denying deduction under section 80GGA of the Act stating that the Trust has not claimed such deduction in the return of income even though deduction is clubbed with deduction claimed u/s 80G of the Act, as there was no separate tab in ITR -5 to claim such deduction u/s 80GGA of the Act and therefore the claim made by clubbing the deduction u/s 80G and 80GGA ought to have been allowed."*

35. In Ground Nos. 1 to 4, the assessee has raised the issue of denial of claim of exemption u/s. 10(34) and 10(35) of the Act in respect of dividend income and income from units.

36. Briefly the facts are, for the assessment year under dispute, the assessee had filed its original return of income on 31.08.2015 declaring total income of Rs.4,04,890/- . Subsequently on 07.09.2015, the assessee filed a revised return of income, declaring NIL income. Before the AO, the assessee pleaded that since it has surrendered its registration u/s. 12A of the Act, it has not claimed any exemption u/s. 11 of the Act. The AO, however, did not accept assessee's claim on the reasoning that since the assessee is registered u/s. 12A of the Act and the provisions of Section 11 to 13 of the Act will apply for computing income, no claim of exemption u/s. 10(34) and 10(35) of the Act can be allowed. Though, the assessee challenged the aforesaid decision of the AO before First Appellate Authority, however, it was unsuccessful.

37. Before us, learned counsel appearing for the assessee submitted that the issue is squarely covered by the decision of the coordinate Bench in case of other similarly

placed trusts. In support, he relied upon the decision of Coordinate bench in case of DCIT vs. Jamsetji Tata Trust ITA No. 2057 & 2058/Mum/2025 order dated 08.08.2025.

38. The learned DR strongly relied upon the observations of the Department Authorities.

39. We have considered rival submissions in the light of judicial precedents cited before us and perused the materials on record. Undisputedly, the assessee had filed the return of income in the impugned assessment year in the status of Association of Persons (AOP) and has not claimed any exemption u/s. 11 of the Act. It is also a fact that the assessee has voluntarily surrendered the registration granted u/s. 12A of the Act. However, the Departmental Authorities have proceeded against the assessee by treating it as a charitable trust registered u/s. 12A of the Act and for alleged violation in conditions of Sections 13(1)(d) and 13(2)(h) of the Act have not only denied exemption u/s. 11 of the Act but have also rejected assessee's claim of exemption u/s. 10(34) and 10(35) of the Act. We find, while considering identical nature of dispute in case of Jamshetji Tata Trust (Supra), the coordinate bench in the order referred to above has held as under:

“8. Before us, the ld. D/R placed strong reliance on the assessment order and the ld. Counsel for the assessee reiterated what has been stated before the lower authorities and drew our attention to the order of the Co-ordinate Bench in the case of Jamsetji Tata Trust in ITA No. 7239/Mum/2019, wherein the Co-ordinate Bench drawing support from the decision of the Mumbai Bench in the case of Navajbai Ratan Tata Trust vs. PCIT in ITA No. 7238/Mum/2019, wherein the Co-ordinate Bench held as under:-

“Our conclusions:

68. *In view of the above discussions, as also bearing in mind the entirety of the case, we are of the considered view that the impugned order of cancellation of registration granted to the assessee under section 12A must be held to be effective from the date on which the hearing on first show-cause notice was concluded and the show cause notice issued by the Commissioner was formally acquiesced by the assessee in the said hearing, i.e., 20' March 2015, since, without disposing of the said matter, the Commissioner, or his successors, could not have started other parallel proceedings for cancellation of registration obtained under section 12A. The registration having been "obtained" under section 12A was in the nature of a benefit to the assessee, and it was, therefore, entirely at the option of the assessee. In our considered view, an assessee unwilling to avail the "benefit" of registration "obtained" under section 12A cannot be, directly or indirectly and by actions or by inactions, compelled by the revenue authorities, to continue with the said registration "obtained" by the assessee, particularly when it pertained to the registration obtained in a period prior to the insertion of section 12AA. The present cancellation of registration under section 12A must, therefore, be held to be effective from 20th March 2015. To this limited extent, we uphold the plea of the assessee.*

69. *We have noted that many other peripheral issues, with regard to the conduct of the assessee trust and compliance with the statutory provisions under section 11 to 13, are raised in the course of the impugned proceedings. In our humble understanding, there is no need to deal with these aspects so far as our adjudication, on the core issue requiring our adjudication in this appeal, is concerned. All these issues so raised by the revenue authorities are left open for adjudication at the appropriate stage such as in the assessment, or any other related, proceedings, if and so necessary. Our observations hereinabove have no bearing, or should be construed as having any bearing, on these issues.*

70. *The admission of additional ground of appeal is also an academic issue in the light of the above conclusions arrived by us, and there is no need to deal with that aspect of the matter either. As we have decided this appeal on the short issue about the date from which the impugned order must be held to be effective, we refrain from dealing with all other issues, including the additional ground of appeal, at this stage. There are many other facets of arguments advanced before us and the grievances raised before us. However, we see no need to deal with all these aspects of the matter at this stage.*

6. *We see no reasons to take any other view of the matter than the view so taken by the coordinate bench in the case of Navajbai Ratan Tata Trust vs PCIT (Supra). These observations will apply mutatis mutandis in the*

present case as well. Respectfully following the same, we hold that the impugned order cancelling registration granted to the assessee trust will have effect from the date on which hearing, on the first show cause notice requiring the assessee to show cause as to why registration under section 12A not be cancelled, and the assessee formally acquiesced to the said notice 10.03.2015, i.e on 20th March 2015.

9. As no distinguishing decision has been brought to our notice, respectfully following the decision of the Co-ordinate Bench (supra), we decline to interfere with the findings of the ld. CIT(A). ”

40. Facts being identical and no contrary decision having been brought to our notice by the Department, we respectfully following the decision of the Coordinate Bench in case of *Jamshetji Tata Trust* (Supra) we allow assessee's claim of exemption u/s. 10(34) and 10(35) of the Act. This ground is allowed.

41. In Ground Nos. 5 and 6, the assessee has contested the denial of deduction claimed u/s. 80G and 80GGA of the Act.

42. Briefly the facts are, in the return of income filed for the assessment year under dispute, the assessee had claimed deduction for an amount of Rs.3,89,36,723/- u/s. 80G of the Act. Whereas, in the computation of income, he claimed further deduction of Rs.2,51,41,000/- u/s. 80GGA of the Act. While considering assessee's claim, the AO observed that as per Section 80G(4) of the Act donation made in excess of 10% of gross total income has to be ignored for the purpose of computation of aggregate of sum in respect of which deduction is to be allowed u/s. 80G of the Act. Accordingly, he restricted assessee's claim of deduction u/s. 80G of the Act to the extent of 10% of gross total income or the actual claim whichever is less.

43. In so far as claim of deduction u/s. 80GGA of the Act, the AO observed that such claim was not made in the return of income but was claimed in the computation

of income, accordingly, he disallowed assessee's claim all together. The assessee agitated the issue before learned First Appellate Authority. However, the assessee was unsuccessful.

44. Before us, learned counsel appearing for the assessee submitted that in so far as claim of deduction u/s. 80G is concerned, the institutions to whom the assessee has donated are eligible for 100% deduction. In respect of some other institutions 50% deduction is eligible. Therefore, in accordance with provisions contained u/s. 80G of the Act deduction should be allowed. As far as claim of deduction u/s. 80GGA is concerned, learned counsel submitted since there was no separate column in the return of income for claiming such deduction, the assessee had claimed it in the computation of income. Without prejudice, learned counsel submitted, issues are squarely covered by the decision of the Coordinate Bench in the case of *ACIT vs. Nawajbhai Ratan Tata Trust* in ITA No. 3851/Mum/2025 order dated 11.09.2025.

45. We have considered rival submissions and perused the materials on record. A reading of the assessment order as well as the order of learned First Appellate Authority will clearly demonstrate that the assessee has furnished all supporting evidences in support of claim of deduction u/s. 80G and 80GGA of the Act. While claim of deduction u/s. 80G of the Act has been partly accepted, deduction claimed u/s. 80G and 80GGA of the Act has been totally rejected since such claim was not made in the return of income. We find, the aforesaid issues have been addressed by the Coordinate Bench in case of *ACIT vs. Nawajbhai Ratan Tata Trust* (Supra) wherein the Bench has held as under:-

“5. Insofar as Ground Nos. 2 & 3 are concerned, while scrutinizing the return of income, the AO noticed that the assessee has claimed deduction u/s 80G at Rs. 16,93,07,443/- and u/s 80GGA Rs.29,79,92,156/. These deductions were claimed in the computation of income by the assessee but in the return of income, the assessee has claimed deduction u/s 80G of the Act only for which the assessee furnished necessary proof. However, as per the provisions of Section 80G(4), the donation made in excess of credits of sums in respect of deduction has to be allowed u/s 80G of the Act. As mentioned hereinabove, in the computation the assessee claimed deduction u/s 80GGA of the Act but in the return of income, only deduction u/s 80G of the Act was claimed. The AO accordingly rejected the claim of deduction u/s 80GGA of the Act.

6. When the matter was agitated before the ld. CIT(A), the ld. CIT(A) was of the opinion that since there is no column in the return in ITR-V for claiming deduction u/s 80GGA of the Act, therefore such deduction could not be claimed by the assessee due to this technical reason and accordingly directed the AO to allow the claim subject to his satisfaction of other conditions laid down in this regard.

7. We find that similar difficulty arose and was considered by the Coordinate Bench in the case of RD Tata Trust in ITA No. 4075/Mum/2023. The relevant findings read as under:-

“09. We have carefully considered the rival contentions and perused the orders of the lower authorities. We find that the assessee is a public trust registered under the Bombay Public Trust Act, 1950, originally registered under Section 12A of the Act on 10th December, 1990 but subsequently, it surrendered its registration on 26th February, 2015, as it did not want to claim any benefit under Section 11 of the Act. The assessee has earned interest income of ₹247,23,301/. Out of this interest income, it claimed deduction of ₹1,42,033/- under 80G of the Act and ₹1,27,02,000/- under Section 80GGA of the Act. It was stated that as no separate column was available in ITR filed for section 80GGA of the Act, the assessee clubbed both this deduction together and accordingly, restricted the taxable income to ₹ nil. In Page | 8 RD Tata Trust; A.Y. 2017-18 the computation of total income file during the course of assessment proceedings, the assessee claimed deduction under Section 80GGA of the Act of ₹1,27,02,000/- and also claimed deduction under Section 80G of the Act of ₹1,42,33,000/. The deduction under Section 80G of the Act was made by the assessee as it donated ₹1,42,33,000/- to Tata Institute of Social Sciences, Deonar, Bombay which is approved university or educational Institution by prescribed authority as per notification dated 15th December, 1993. Therefore, the deduction under Section 80G of the Act was not restricted to 10% of the gross total income as deduction granted

to the specified entities and therefore, 50% of the above amount was allowed. The learned CIT (A) has restored the matter back to the file of the learned Assessing Officer to grant deduction to the assessee under Section 80G of the Act to the entities registered under Section 80G(3)(a)(iiif) of the Act after verification. Thus, according to him on perusal of Section 80G(4) of the Act, it does not restrict the donation given to such entity by restricting it to the 10% of the total income.

8. Respectfully following the decision of the Co-ordinate Bench (supra), we do not find any error or infirmity in the directions of the ld. CIT(A). Ground Nos. 2 & 3 are accordingly dismissed.”

46. Facts being identical, respectfully following the decision of the Coordinate Bench referred to above, we direct the AO to allow assessee's claim of deduction u/s. 80G and 80GGA of the Act after factual verification. This ground is allowed.

47. In the result, appeal is allowed.

ITA No. 4496/Mum/2024 (Assessee's appeal) A.Y. 2016-17

48. Grounds No. 1 to 4 are identical to Ground No. 1 to 4 of ITA No. 4156/Mum/2024 decided earlier in the order. Decision taken therein by us will apply *mutatis mutandis* to these grounds as well. Hence, grounds are allowed.

49. In Ground Nos. 5 and 6, the assessee has contested the disallowance of claim of exemption u/s. 80G and 80GGA of the Act. These grounds are identical to Ground Nos. 5 and 6 in ITA No. 4151/Mum/2024 decided in the earlier part of the order. The decision taken therein will apply *mutatis mutandis* to this appeal also.

50. In the result, appeal is allowed.

ITA No. 4727/Mum/2024 (Assessee's appeal) A.Y. 2016-17

51. This appeal arises out of rectification proceeding u/s. 154 of the Act. In view of our decision in the main quantum appeal, being ITA No. 4496/Mum/2024 (Supra) this appeal has become infructuous. Hence, dismissed.

ITA No. 4835/Mum/2024 (Assessee's appeal) A.Y. 2017-18

52. Effective ground raised by the assessee are as under:

- “1. *On the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) ['Id. CIT(A)'] erred in concluding that the registration of the Trust under section 12A of the Income-tax Act, 1961 (Act') was still in force in complete disregard of the order passed by the Hon'ble Income Tax Appellate Tribunal in its own case which had held that its registration had ceased with effect from 20th March, 2015.*
- 2. *The Id. CIT(A) ought to have held that the provisions of sections 11 to 13 of the Act are not applicable to the Appellant as its registration u/s. 12A of the Act had been surrendered on 19.02.2015.*
- 3. *Without prejudice to the above, if the Id CIT(A) was of the opinion that the Appellant's registration was active (contrary to the Tribunal's order), it should have granted the Appellant the benefit of section 11 of the Act.*
- 4. *The Id. CIT(A) erred in upholding the Assessing Officer's ('AO') order denying the exemption on the Income from units under section 10(35) of the Act.*
- 5. *The Id. CIT(A) erred in not reversing the AO's order inasmuch as he has denied a part of the Appellant's claim of deduction u/s, 80G of the Act.*
- 6. *The Id. CIT(A) erred in denying deduction under section 80GGA of the Act stating that the Trust has not claimed such deduction in the return of income even though deduction is clubbed with deduction claimed u/s 80G of the Act, as there was no separate tab in ITR-5 to claim such deduction u/s 80GGA of the Act and therefore the claim made by clubbing the deduction u/s 80G and 80GGA ought to have been allowed.*

7. *The Id. CIT(A) erred in upholding levy of interest under section 234B of the Act for the addition not envisaged by the Appellant.”*

53. Ground Nos. 1 to 4 are identical to Ground Nos. 1 to 4 of ITA No. 4156/Mum/2024 decided by us in the earlier part of this order.

54. The decision taken therein would apply *mutatis mutandis* to these grounds. Accordingly, grounds are allowed.

55. In Ground Nos. 5 and 6, the assessee has raised the issue of denial of claim of deduction u/s.80G and 80GGA of the Act, these grounds are identical to Ground Nos. 5 and 6 of ITA No. 4156/Mum/2024 decided in earlier part of this order. The decision taken therein by us would apply *mutatis mutandis* to these grounds as well.

Accordingly, grounds are allowed.

56. Ground No.6 being consequential does not require adjudication.

57. In the result, appeal is allowed.

ITA No. 4873/Mum/2024 (Revenue's appeal) A.Y. 2017-18

58. Grounds raised by the Department are as under:

- “1. *On the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) ['Id. CIT(A)'] erred in concluding that the registration of the Trust under section 12A of the Income-tax Act, 1961 (Act') was still in force in complete disregard of the order passed by the Hon'ble Income Tax Appellate Tribunal in its own case which had held that its registration had ceased with effect from 20th March, 2015.*
- 2. *The Id. CIT(A) ought to have held that the provisions of sections 11 to 13 of the Act are not applicable to the Appellant as its registration u/s. 12A of the Act had been surrendered on 19.02.2015.*
- 3. *Without prejudice to the above, if the Id CIT(A) was of the opinion that the Appellant's registration was active (contrary to the*

Tribunal's order), it should have granted the Appellant the benefit of section 11 of the Act.

4. *The Id. CIT(A) erred in upholding the Assessing Officer's ('AO') order denying the exemption on the Income from units under section 10(35) of the Act.*
5. *The Id. CIT(A) erred in not reversing the AO's order inasmuch as he has denied a part of the Appellant's claim of deduction u/s, 80G of the Act.*
6. *The Id. CIT(A) erred in denying deduction under section 80GGA of the Act stating that the Trust has not claimed such deduction in the return of income even though deduction is clubbed with deduction claimed u/s 80G of the Act, as there was no separate tab in ITR-5 to claim such deduction u/s 80GGA of the Act and therefore the claim made by clubbing the deduction u/s 80G and 80GGA ought to have been allowed.*
7. *The Id. CIT(A) erred in upholding levy of interest under section 234B of the Act for the addition not envisaged by the Appellant."*

59. We have heard the parties and perused the materials on record. After carefully going through the order of the First Appellate Authority, we are of the view that the grounds raised by the Department are thoroughly misconceived as no relief with regard to assessee's claim of exemption either Section 11 or Sections 10(34) and 10(35) of the Act has been allowed by the First Appellate Authority. In fact, the order of the First Appellate Authority clearly demonstrates that he has agreed with the AO with regard to violation of Section 13(1)(d) and 13(2)(h) of the Act. Even he has accepted the decision of the AO with regard to denial of claim of exemption u/s. 10(34) and 10(35) of the Act. Only relief granted by the First Appellate Authority is with regard to rate of tax on interest income and other income which were outside the purview of violation of Sections 13(1)(d) and 13(2)(h) of the Act.

60. In view of aforesaid, we do not find merit in the grounds raised. Hence dismissed.

61. In the result, Revenue's appeal is dismissed.

62. To sum up, assessee's appeals except ITA No. 4727/Mum/2024 are partly allowed. ITA No. 4727/Mum/2024 and Revenue's appeals are dismissed.

Order pronounced in the open court on 10/10/2025.

Sd/-
 (N.K. Billaiya)
 Accountant Member

Sd/-
 (Saktijit Dey)
 Vice President

Mumbai; Dated : 10/10/2025

Aks/-

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
 ITAT, Mumbai