A charitable and / or religious trust is entitled to carry forward and adjust the excess expenditure in earlier years against the income of subsequent years

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Recently, an educational institution, one of my clients, sought an Opinion, whether a charitable / or religious trust is entitled to carry forward and adjust the excess of expenditure over income in earlier years against the income of subsequent years, in order to fulfil the requirement of section 11(1)(a) of the Income-Tax Act, 1961 (the Act). The aforesaid Opinion was sought primarily in view of the decision of Chennai Bench of the Tribunal in the case of *Anjuman-E-Himayath-E-Islam Vs ADIT(E) [2015] 127 DTR (Trib) 318 (Chennai),* wherein it has been held that the claim of the assessee to carry forward excess claim of fund cannot be entertained applying the commercial principles.

At the outset, it may be broadly stated that almost all the judicial fora are of the view that in case of a charitable or religious institution, adjustment of excess expenditure of one year against the income of another year, is application of income under section 11 of the Income-Tax Act, 1961 (the Act). There is almost a consensus among the judicial fora that when the trust spends more than the income generated in a particular year, the excess expenditure may be carried forward and set off against the incomes of later or subsequent years. It is only the Chennai Bench of the Tribunal which has expressed a contrary view in the case of *Anjuman-E-Himayath-E-Islam Vs ADIT(E) [2015] 127 DTR (Trib) 318 (Chennai)*, wherein it has been held that claim of an assessee to carry forward excess claim of fund cannot be entertained applying the **commercial principles**. It may also be stated here that the aforesaid decision has later on been followed in the case of *Sundaram Medical Foundation Vs Dy.DIT (E) [2016] 45 ITR (Trib) 500 (Chennai)*

The aforesaid decision of the Chennai Bench of the Tribunal is totally erroneous, because the relevant judgements of the various High Courts, including two judgements of the Madras High Court, being the Jurisdictional High Court, have expressed a view totally contrary to the aforesaid view of the Chennai Bench of the Tribunal.

In this context, it has to be particularly noted that in the aforesaid decision of the Chennai Bench of the Tribunal, the relevant judgements of the Madras High Court, as well as the other High Courts, have neither been cited, nor the same have been considered. Besides, even the judgement of the Bombay High Court, in the case of *CIT Vs Institute of Banking [2003] 264 ITR 110 (Bom) : 185 CTR 492 (Bom)* referred to by the CIT(A), in his appellate order, which is a direct judgement on the issue by the Bombay High, has been totally ignored by the Tribunal. Therefore, the aforesaid decision of the

Chennai Bench of the Tribunal, suffers from a fatal flaw and accordingly, its aforesaid view does not represent the correct legal position and hence, the same has got to be ignored.

In this context, it would be very relevant to refer to the provisions of section 11(1)(a) of the Act. For the sake of ready reference, section 11(1)(a) is reproduced as follows :

> ***"11. Income from property held for charitable or religious purposes.***
>
> *(1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—*
>
> *(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property;"*

From the aforesaid provisions of section 11(1)(a) of the Act, it may be seen that income derived from property held under the trust wholly for charitable or religious purposes, will be exempt to the extent to which such income is **applied** towards the objects of the trust in India and where such income is accumulated or set apart for application towards such objects in India, then the same will also be exempt to the extent to which the income is so accumulated or set apart, provided the same is not in excess of fifteen per cent (15%) of the income from such property.

From the aforesaid provisions of section 11(1)(a) of the Act, it is quite clear that the scheme of taxation of charitable / religious trusts is quite different from taxation of other taxable entities under the Act. The reason for the same is that for exemption under section 11(1)(a), the application of income and / or accumulation of such income for the purposes of the objects of the trust is relevant.

Further, in section 11(1)(a) of the Act, the word '***applied***' is wider in import than the word '***expenditure***'. In this regard, a reference may be made to the judgement of Kerala High Court in the case of *CIT Vs St. George Forana Church [1988] 170 ITR 62 (Ker)*, wherein the issue of exemption under section 11(1)(a) of the Act was involved. It was held in this case that the word '*applied*' is wider in import than the word '*expenditure*'. According to Webster's Third New International Dictionary, the word '***applied***' means '***to put to practical use, etc.***'. The word **'*expenditure*'** means '***disbursement***'. '***Expend***' means '***to pay out or distribute; to spend***'. On page 65 of the Report, the High Court has observed as follows :

> The word '***applied***' in the text means '***actually applied or actually expended'***

It is, thus, absolutely clear that **an application of income entails expenditure to be incurred out of such income**. Therefore, under section 11(1)(a), '*application of income'* implies spending such income on the objects of the trust. Hence, it is clear that the basic criterion to be fulfilled under section 11(1)(a) is **incurrence of expenditure on the objects of the trust out of such income**. It may, therefore, be clearly seen that the provisions of section 11(1)(a) do not lay down any condition as regards the **source of the aforesaid expenditure** to be incurred on the objects of the trust.

In the light of the aforesaid reasons, the emphasis laid down by the Chennai Bench of the Tribunal, in the aforesaid judgement on '*the source of expenditure'* on the objects of the tr*ust* is absolutely erroneous. Instead, the emphasis has to be placed on the '*expenditure to be incurred'* on the objects of the trust under the provisions of section 11(1)(a) of the Act.

In support of the aforesaid view, the relevant judgements of the High Courts, including the Madras High Court, as also the decisions of the other Benches of the Tribunal, are discussed as follows :

1. *Govindu Naicker Estate Vs ADIT [2001] 248 ITR 368 (Mad) : 167 CTR 303 (Mad)*

At the outset, it was held in this case that the income of the trust has to be arrived at having due regard to **commercial principles**.

It was further held that section 11 of the Income-Tax Act, 1961, is a benevolent provision. The income of a charitable trust has to be arrived at having due regard to commercial principles. The object of the charitable trust can only be achieved by incurring expenditure and in order to incur that expenditure, the trust should have income. So long as the expenditure incurred is on religious or charitable purposes, it is expenditure properly incurred by the trust and the income from out of which that expenditure is incurred, would not be liable to tax**. If expenditure incurred in an earlier year is adjusted against the income of a later year, it has to be held that the trust had incurred expenditure on a religious and charitable purposes from the income of the subsequent year, even though the actual expenditure was in the earlier years if in the books of account of the trust, such earlier expenditure had been set-off against the income of the subsequent year.** The expenditure that can be so adjusted can only be expenditure on religious and charitable purposes and no other.

In other words, it was held by the Madras High Court that expenditure incurred by a trust on charitable or religious purposes in earlier year or years can be adjusted against the income of the subsequent year, irrespective of the head of income under which it is incurred

2. *CIT Vs Matriseva Trust [2000] 242 ITR 20 (Mad) : 158 CTR 433 (Mad)*

It was held in this case that the assessee, as a trust, was entitled to set-off the amount of excess application of income of the last year against the deficiency of the present year.

In this case, the Madras High Court has followed the judgements of the Rajasthan and Gujarat High Courts in the following cases :

(i) *CIT Vs Maharana of Mewar Charitable Foundation [1987] 164 ITR 439 (Raj) : 60 CTR 40 (Raj)*

It was held in this case that where excess expenditure is incurred by a trust in a year, set-off of such excess against subsequent year's income is application for the purpose of section 11(1)(a) of the Act.

(ii) *CIT Vs Shri Plot Swetamber Murti Pujak Jain Mandal [1995] 211 ITR 293 (Guj) : [1994] 119 CTR 144 (Guj)*

It was held in this cased that having regard to the benevolent provisions contained in section 11 and **commercial principles**, deficit arising out of expenses incurred by assessee-trust for charitable and religious purposes over income derived from trust property for the relevant year can be set-off against the surplus of income in subsequent year.

3. *CIT Vs Institute of Banking [2003] 264 ITR 110 (Bom) : 185 CTR 492 (Bom)*

It was, *inter-alia*, held in this case that in case of a charitable trust whose income is exempt under section 11, excess of expenditure in the earlier years can be adjusted against income of subsequent years and such adjustment would be application of income for subsequent years.

In this case, it was argued on behalf of the I.T. Department that expenditure incurred in the earlier years cannot be met out of the income of the subsequent year and that utilization of such income for meeting the expenditure of earlier years would not amount to application of income for charitable or religious purposes. In the present case, the Assessing Officer did not allow carry forward of excess of expenditure to be set-off against the surplus of the subsequent years on the ground that in the case of charitable trusts, their income was assessable under self-contained code mentioned in section 11 to section 13 of the Act and that the income of the charitable trust was not assessable under the head '*Profits and gains of business'* under section 28 in which the provision for carry forward of losses was relevant. It was further contended by the I.T. Department that in

the case of a charitable trust there was no provision for carry forward of the excess of expenditure of earlier years to be adjusted against the income of subsequent years.

It was held by the High Court that there was no merit in the aforesaid argument of the Department. The income derived from the trust property has also got to be computed on **commercial principles** and if **commercial principles** are applied then adjustment of expenses incurred by the trust for charitable and religious purposes in the earlier years against the income earned by the trust in the subsequent years, would have to be regarded as application of income by the trust for charitable and religious purposes in the subsequent years in which adjustment has been made, having regard to the benevolent provisions contained in section 11 of the Act and that such adjustment will have to be excluded from income of the trust under section 11(1)(a) of the Act.

It was further held that the aforesaid view is supported by the judgement of Gujarat High Court in the case of *CIT Vs Shri Plot Swetamber Murti Pujak Jain Mandal [1995] 211 ITR 293 (Guj).*

4. *CIT Vs Maharana of Mewar Charitable Foundation [1987] 164 ITR 439 (Raj) : 60 CTR 40 (Raj)*

At the outset, it was held in this case that where excess expenditure is incurred by the trust in a year set-off of such excess against subsequent year's income is application for purposes of section 11(1)(a) of the Act.

It was further held that there are no words of limitation in section 11 explaining that the income should have been applied for charitable or religious purposes only in the year in which the income had arisen. Therefore, even if the expenses for charitable and religious purposes have been incurred in the earlier year and the said expenses are adjusted against the income of the subsequent year, the income of that year can be said to have been applied for charitable and religious purposes in the year in which the expenses incurred for charitable and religious purposes have been adjusted.

In addition, it was held that if it were held that only that income of a charitable trust would be excluded which was applied for charitable and religious purposes during the relevant assessment year in which the income was earned, it would lead to an anomalous situation. A construction which leads to such an anomaly should be avoided. The adjustment of the expenses incurred by the trust for charitable and religious purposes, in the earlier year against the income earned by the trust in the subsequent year, would amount to applying the income of the trust for charitable and religious purposes in the subsequent year in which such adjustment had been made and would have to be excluded from the income of the trust under section 11(1)(a) of the Act.

5. *CIT Vs Shri Plot Swetamber Murti Pujak Jain Mandal [1995] 211 ITR 293 (Guj) : [1994] 119 CTR 144 (Guj)*

It was held in this case that having regard to the benevolent provisions contained in section 11 and **commercial principles**, deficit arising out of expenses incurred by the assessee trust for charitable and religious purposes over income derived from the trust property for the relevant year, can be set-off against the surplus of income in subsequent year.

It was further held that there are no words of limitation in section 11 providing that the income should have been applied for charitable or religious purposes only in that year in which the income had arisen. Therefore, even if the expenses for charitable and religious purposes have been incurred in the earlier year and the said expenses are adjusted against the income of the subsequent year, the income of that year can be said to have been applied for charitable and religious purposes in the year in which the expenses incurred for charitable and religious purposes had been adjusted. There is nothing in the language of section 11(1)(a) of the Act to indicate that the expenditure incurred in the earlier year cannot be met out of the income of the subsequent year and utilization of such income for meeting the expenditure of the earlier year, would not amount to such income being applied for charitable or religious purposes. Income derived from trust property has to be determined on **commercial principles** and if **commercial principles** for determining the income are applied, it is but natural that the adjustment of the expenses incurred by the trust for charitable and religious purposes in the earlier year against income earned by the trust in the subsequent year will have to be regarded as application of income of the trust for charitable and religious purposes in the subsequent year in which such adjustment has been made having regard to the benevolent provisions contained in section 11 of the Act and will have to be excluded from the income of the trust under section 11(1)(a) of the Act.

6. *DIT Vs Raghuvanshi Charitable Trust [2010] 44 DTR 223 (Del)*

It was held in this case that deficit (excess of expenditure over income) of current year can be adjusted against the income of subsequent year and the same would amount to application of income of the trust for charitable purposes in the subsequent year within the meaning of section 11(1)(a).

In this judgement, reliance has been placed on the following judgements :

(i) *CIT Vs Shri Plot Swetamber Murti Pujak Jain Mandal [1995] 211 ITR 293 (Guj) : [1994] 119 CTR 144 (Guj)*

(ii) *CIT Vs Maharana of Mewar Charitable Foundation [1987] 164 ITR 439 (Raj) : 60 CTR 40 (Raj)*

(iii) *CIT Vs Institute of Banking [2003] 264 ITR 110 (Bom) : 185 CTR 492 (Bom)*

(iv) CIT Vs Matriseva Trust [2000] 242 ITR 20 (Mad) : 158 CTR 433 (Mad)

In this context, it will be significant to state that in paragraph (9) of the aforesaid judgement it has been stated that as many as five High Courts have interpreted the provision in an identical and similar manner. The learned Counsel for the Revenue could not show any judgement where any other High Court has taken a contrary view.
It is, thus, clear that on the issue under consideration, no High Court has taken a contrary view.

In other words, it may be emphatically stated that all the High Courts have taken a view that adjustment of excess expenditure of one year against the income of another year, is application of income under section 11 of the Act. Thus, all the High Courts have taken a view which is totally contrary to the view taken by the Chennai Bench of the Tribunal in the aforesaid decision.

7. *CIT Vs Gujrati Samaj (Regd)[2012] 349 ITR 559 (MP) :[2011] 64 DTR 76 (MP)*

It has been held in this case that expenditure incurred in the earlier year can be met out of the income of the subsequent year and utilization of such income for meeting the expenditure of the earlier year would amount to such income being applied for charitable or religious purposes.

In this case, the provisions of section 11(1)(a) have been examined. It was held that in view of section 11(1)(a) of the Act, it cannot be said that the expenditure incurred in the earlier year cannot be met out of the income of the subsequent year and utilization of such income for meeting the expenditure of earlier year would not amount to such income being applied for charitable or religious purposes. Having regard to section 11(1)(a) of the Act, when the income of the trust is used or put to use to meet the charitable or religious purposes, it is applied for charitable purposes and the said application of income for charitable or religious purposes takes place in the year in which the income is adjusted to meet the expenses incurred for charitable or religious purposes. Thus, even if the expenses for charitable and religious purposes have been incurred in the earlier year and the said expenses are adjusted against the income of the subsequent year, the income of that year can be said to have been applied for charitable and religious purposes in the year in which expenses incurred for charitable and religious purposes had been adjusted. There are no words of limitation in section 11(1)(a) of the Act, explaining that the income should have been applied for charitable or religious purposes only in the year in which the income had arisen. For this purpose, reliance is place on the judgement of Rajasthan High Court in *CIT Vs Maharana of Mewar Charitable Foundation [1987] 164 ITR 439 (Raj) : 60 CTR 40 (Raj).*

8. *ACIT Vs City Hospital Charitable Trust [2015] 42 ITR (Trib) 583 (Bang)*

It was clearly held in this case that in case of a charitable trust whose income was exempt under section 11, excess of expenditure in earlier years, could be adjusted against income of subsequent years and such adjustment would be application of income for subsequent years.

It is a detailed order passed by the Bangalore Bench of the Tribunal. It was further held in this case that section 11(1)(a) of the Act does not contain any words of limitation to the effect that the income should have been applied for charitable or religious purpose only in the year in which the income has arisen. The application for charitable purposes, as contemplated under section 11(1)(a), takes place in the year in which the income is adjusted to meet the expenses incurred for charitable or religious purposes. **Hence, even if the expenses for such purposes have been incurred in earlier years and the expenses are adjusted against the income of a subsequent year, the income of such subsequent year can be said to be applied for charitable or religious purposes in the year in which such adjustment takes place. In other words, the set-off of excess of expenditure incurred over the income of earlier years against the income of a later year will amount to application of income of such later year.**

Referring to a judgement of Bombay High Court in the case of *CIT Vs Institute of Banking [2003] 264 ITR 110 (Bom),* it was held that in case of a charitable trust, whose income was exempt under section 11, excess of expenditure in earlier years could be adjusted against income of subsequent years and such adjustment would be application of income for subsequent years.

It was further held that in *Govindu Naicker Estate Vs ADIT [2001] 248 ITR 368 (Mad),* the High Court held that the income of the trust has to be arrived at having due regard to **commercial principles**. Besides, section 11 is a benevolent provision and the expenditure incurred on charitable or religious purpose in earlier year or years can be adjusted against the income of subsequent year. The object of charitable or religious trust could only be achieved by incurring expenditure and in order to incur that expenditure, the trust should have income. So long as the expenditure incurred is on charitable or religious purposes, it is the expenditure properly incurred by the trust and the income from out of which the expenditure is incurred, would not be liable to tax. The expenditure, if incurred in an earlier year is adjusted against the income of a later year, it has to be held that the trust incurred expenditure on charitable or religious purposes from the income of the subsequent year, even though the actual expenditure was in earlier years, if in the books of account of the trust such earlier expenditure had been set-off against the income of the subsequent year.

It may also be stated that in this judgement the Tribunal has also relied upon the judgements in the cases of *CIT Vs Maharana of Mewar Charitable Foundation [1987] 164 ITR 439 (Raj)* and *CIT Vs Shri Plot Swetamber Murti Pujak Jain Mandal [1995] 211 ITR 293 (Guj).*

9. *ACIT(E) Vs Dawate E. Hadiyah [2015] 43 ITR (Trib) 476 (Mum)*

In the present case, it will be relevant to reproduce grounds of appeal Nos. 3, 4 and 5, raised by the I.T. Department before the Tribunal against the order of the CIT(A), on pages 478 and 479 of the Report. The same are as follows :

" ***Grounds of appeal***

3. *Whether on the facts of the case and in law the Id. CIT(A) erred in allowing the carry forward of deficit of Rs. 278,24,26,641/- and allowing set off against the income of the subsequent years allowing the deficit will tantamount to double deduction on account of expenditure out of exempt income. "*

4. *Whether, on the facts and circumstances of the case and in law, the Id.CIT(A) erred in allowing to carry forward of deficit on account of excess expenditure and directing the Assessing Officer to allow carry forward of deficit on account of excess expenditure without appreciating the fact that this would have the effect of granting double benefit to the assessee, first as accumulation[1] of income u/s II(l)(a) or as corpus donations u/s 11(1)(d) in early years /current year and then as' application of income u/s 11(l)(a) in the subsequently years which was legally not permissible?*

5. *Whether, on the facts and circumstances of the case and in law, the Id.CIT(A) erred in allowing the claim of the assessee for carry forward of the said deficit, ignoring the fact that there was no express provisions in the Act, 1961 permitting allowance of such claim.*"

In this case, during the year, the assessee had deficit of Rs. 278,24,26,641, which is carried forward to next year to be set-off against the income of subsequent years. The AO did not allow carry forward of deficit of Rs.278,24,26,641 for set-off of the same against the income of subsequent years. The CIT(A) allowed carry forward of Rs.278,24,26,641 and set-off of the same against the income of subsequent years.

On appeal by the I.T. Department before the Tribunal, dismissing the appeal of the Department, it was held that the excess application of income of earlier years was to be allowed to be carried forward to the subsequent years and there was no infirmity in the order of the CIT(A).

10. *Dy.CIT Vs Manipal Academy of Higher Education [2015] 44 ITR (Trib) 18 (Bang)*

In this case, the assessee claimed deficit of earlier years inclusive of current year deficit to be carried forward for setting-off as application of income in subsequent years. The Assessing Officer rejected this on the ground that there was no provision for carry forward of excess expenditure over income under the Income-Tax Act, 1961. The CIT(A) following the order in the assessee's own case for the AY 2010-11, allowed the claim of the trust.

On appeal by the Department, it was held that the CIT(A) was justified in allowing carry forward of deficit of earlier years and set-off against the surplus of a subsequent year.

In this case, the Tribunal has followed its earlier judgement in the case of *ACIT Vs City Hospital Charitable Trust [2015] 42 ITR (Trib) 583 (Bang).*

Conclusion

From the discussion in the preceding paragraphs, it is absolutely clear that the Chennai Bench of the Tribunal has rendered its decision in the case of *Anjuman-E-Himayath-E-Islam Vs ADIT(E) [2015] 127 DTR (Trib) 318 (Chennai)*, in blatant disregard to the judgements of the jurisdictional High Court on the issue, as also the judgements of a number of other High Courts on the issue. Such an action on the part of the Chennai Bench of the Tribunal is nothing but gross judicial indiscipline.

In the present context, a reference may also be made to the observations of the Chennai Bench of the Tribunal at the end of paragraph 4.5, on pages 323 and 324 of the Report. The aforesaid observations are as follows :

"*From the above factual and mathematical matrix, it is evident that carry forward of excess application of fund in the commercial principles, cannot be allowed as per the provisions of the Act, because it would result in notional application of income in the subsequent year. These aspects have not been considered in the Mumbai Bench of the Tribunal and the unreported decision of the Hon'ble. Bombay High Court is also not placed before us*."

It may, thus, be seen that the aforesaid observations of the Tribunal are blatantly incorrect, because in paragraph 4.2, on page 322 of the Report, the Tribunal has reproduced the observations of the CIT(A), wherein a clear reference has been made to the judgement of the Bombay High Court in the case of *CIT Vs Institute of Banking [2003] 264 ITR 110 (Bom) : 185 CTR 492 (Bom)*. If the Members of the Tribunal were honest in their approach, they could have easily considered the aforesaid judgement of Bombay High Court, wherein it has been clearly laid down that excess expenditure in the earlier years

can be adjusted against the income of the subsequent years and such adjustment would be application of income for subsequent years.

The issue under consideration, in the present context, is the adjustment of excess expenditure incurred in the earlier year against the income of subsequent year. In the aforesaid judgements it has been held by the High Courts, as well as the Tribunal that even if the expenses for charitable or religious purposes have been incurred in the earlier years and such expenses are adjusted against the income of subsequent year, the income of such subsequent year can be said to be applied for charitable or religious purposes in the year in which such adjustment takes place.

Besides, what is relevant to be considered under section 11(1)(a) is the expenditure incurred on the objects of the trust and not the source of such expenditure. Therefore, the emphasis placed by the Chennai Bench of the Tribunal in the aforesaid decision on the source of expenditure, viz. loan, sundry creditors, corpus of the trust, etc. is absolutely uncalled for and erroneous.

It may be further stated that it has also been held in some of the aforesaid judgements that **there are no words of limitation in section 11 explaining that the income should have been applied for charitable or religious purposes only in the year in which the income had arisen.** Therefore, even if the expenses for charitable or religious purposes have been incurred in the earlier year and the said expenses are adjusted against the income of subsequent year, the income of that year can be said to have been applied for charitable or religious purposes in the year in which the expenses incurred for charitable or religious purposes have been adjusted.

It may be further stated that the aforesaid decision of the Chennai Bench of the Tribunal in the case of *Anjuman-E-Himayath-E-Islam Vs ADIT(E) [2015] 127 DTR (Trib) 318 (Chennai)*, is totally contrary to the judgements of a number of High Courts, including the Jurisdictional High Court, on the issue under consideration. These judgements are listed as follows :

(i) Govindu Naicker Estate Vs ADIT [2001] 248 ITR 368 (Mad) : 167 CTR 303 (Mad)

(ii) CIT Vs Matriseva Trust [2000] 242 ITR 20 (Mad) : 158 CTR 433 (Mad)

(iii) CIT Vs Institute of Banking [2003] 264 ITR 110 (Bom) : 185 CTR 492 (Bom)

(iv) CIT Vs Maharana of Mewar Charitable Foundation [1987] 164 ITR 439 (Raj) : 60 CTR 40 (Raj)

(v) CIT Vs Shri Plot Swetamber Murti Pujak Jain Mandal [1995] 211 ITR 293 (Guj) : [1994] 119 CTR 144 (Guj)

(vi) DIT Vs Raghuvanshi Charitable Trust [2010] 44 DTR 223 (Del)

(vii) CIT Vs Gujrati Samaj (Regd)[2012] 349 ITR 559 (MP) : 64 DTR 76 (MP)

Besides, the aforesaid decisiont of the Chennai Bench of the Tribunal is also totally contrary to the following decisions of the various other Benches of the Tribunal :

(i) ACIT Vs City Hospital Charitable Trust [2015] 42 ITR (Trib) 583 (Bang)
(ii) ACIT(E) Vs Dawate E. Hadiyah [2015] 43 ITR (Trib) 476 (Mum)
(iii) Dy.CIT Vs Manipal Academy of Higher Education [2015] 44 ITR (Trib) 18 (Bang)

In the light of the aforesaid overwhelming case-law in favour of the view that a trust is entitled to set off the excess expenditure incurred in earlier year against the income of a later year, the aforesaid decision of the Chennai Bench of the Tribunal, in the case of *Anjuman-E-Himayath-E-Islam Vs ADIT(E) [2015] 127 DTR (Trib) 318 (Chennai),* does not represent correct legal position and accordingly, the same has got to be ignored.

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