

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**AHMEDABAD “C” BENCH**

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER  
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER)**

**ITA. No: 2441/AHD/2015  
(Assessment Year: 2010-11)**

<b>Income Tax Officer (Exemptions), Ahmedabad</b>	<b>Ward-1,</b>	<b>V/S</b>	<b>Indian Stainless Steel Development Organisation, 26, Mangal Murti Complex, Ashram Road, Ahmedabad-380009</b>
<b>(Appellant)</b>			<b>(Respondent)</b>

**PAN: AAAAI2964C**

**Appellant by : Shri Prasoon Kabra, Sr. D.R.  
Respondent by : Shri S. N. Divetia, (Adv.)**

**(आदेश)/ORDER**

Date of hearing : 02 -05-2018

Date of Pronouncement : 14-05-2018

**PER MAHAVIR PRASAD, JUDICIAL MEMBER**

1. This appeal by the Revenue is directed against the order of the Ld. CIT(A)-9, Ahmedabad dated 28.05.2015 pertaining to A.Y. 2010-11 and following grounds have been taken:

- (i) *The Ld. Commissioner of Income-Tax (Appeals) has erred in law and on facts in deleting the disallowance of the claim of exemptions u/s 11(l)(a) of the I.T. Act of Rs.72,62,624/- and u/s 11(2) of the I.T. Act of Rs. 77,00,000/- made by the A.O. as A.O has disallowed exemptions claimed u/s 11 & 12 of the Act under section 13(8) since the assessee is covered by 1st proviso to Section 2(15).*
- (ii) *On the facts and circumstances of the case, the Ld. Commissioner of Income-Tax (Appeals) ought to have upheld the order of the Assessing Officer.*
- (iii) *It is, therefore, prayed that the order of the Ld. Commissioner of Income-Tax (Appeals) may be set aside and that of the Assessing Officer be restored.*

2. The facts of the case are that the assessee trust, during the year under consideration has carried on various activities in line with its objects such as, to organize arrangement in the interest of stainless steel industry. The trust is registered u/s 12AA of the I.T. Act. vide Order No.DIT(E)/12AA/554/2009-10 dated 01.07.2009. The trust is approved u/s 80G(5) of the IT. Act, 1961 vide F.No. DIT(E)/80G(5)/970/2008-09 dated 16.07.2009.

3. During the course of assessment proceeding for the year under assessment, the assessee was asked vide letter dated 13.02.2013 that the conducting the fair/exhibition of the trust is falls under the limb of the advancement to general public utility and why the proviso 1 and 2 does not applicable to the trust .which is reproduced as under:

*"As per sub-section 15 of section 2 of the I T Act, 1961, the definition of the abovepurpose reads as under:*

*"Charitable purpose includes relief of the poor, education, medical relief (Preservation of environment (including water sheds, forest and wild life) and preservation of*

*movements or places or objects or article or historic interest) and the advancement of any other object of general public utility".*

*Provided that the advancement of any other object of general public utility shall not be charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business any activity of rendering any service in relation to any trade, commerce or business for cess or fee or any other consideration irrespective of the nature of use or application or retention of income from such activity.*

*As per the above mentioned section your activity falls under advancement to general public utility then the proviso - I, shall be applicable, Your activity & conducting fair/exhibition does not tantamount to be charitable activity which was claimed by you and getting benefit of section 11.*

4. *In the light of above, reply of yours shall not be considered. Therefore, you are required to show cause as to why the deduction u/s 11 of the Act claimed by you be not denied and the income of the trust be computed as per normal provisions of the Act. You are hereby requested to prepare Profit and Loss Account and Balance Sheet as per normal commercial parlance and furnish the same before the undersigned at the time of next hearing."*

4.2.1 *In response to the notice the assessee submitted vide 25.02.2013.*

*"1. It is proposed by you that the activity of conduction fair/exhibition carries out by the assessee-trust falls under the advancement of general public utility so that the First Proviso was applicable and as such the deduction u/s.11 was not admissible and income had to be computed as per normal provisions in as commercial manner.*

*2. We may state that simply because the activity of exhibition/fair - INDLANOX-2010 arranged by us had resulted into surplus it did not disqualify, from exemption u/s.11. It is not as if the charitable institution cannot generate any surplus. The surplus is to be understood in*

*contra distinction to generation of income with the sole motive of the profit it one has to understand the legislative intent of this proviso (Refer to MAA Saraswati Educational Trust (236 CTR 400) (HP). You will appreciate that the assessee trust was not establish with the sole of intention to carry out the Activity with the object to earn income. The sole intention behind arranging the fair/ exhibition was to acquaint promote and create awareness amongst the members and general public both with the stainless Steel industry. The number of people who participated in the fair/ exhibition that itself proves that the intention was not to earn out of it. It had provided source of information to the participants about the present position of stainless Steel industry. The said activity was consonance with the Clause (a) and (c) of Memorandum of Association. You will Appreciate that 'the very fact that it is not a disabling factor but there may be surplus arising from the activities of the trust and it can accumulate for spending on its objects in future by opting for accumulation. One can draw analogy from the profit earned by the educational institution.*

*The copy of earlier show cause submission u/s.2(15) dated 29/01/2013 is also enclosed for your ready reference.*

*In view of the above facts and circumstances of the case it is submitted that the proposed action to disqualify the assessee trust from exemption u/s.11 solely on the ground of surplus from the activity affair/ exhibition is wholly untenable and it may be dropped. "*

4.2.2 *Reply of the assessee dated 29th of January, 2013 in response to the Questionnaire dated 02-11-2012 A.Y.2010-11 which is also reproduced :-*

*With reference to the above and further to the replies/ details/ documents etc. furnished earlier from time to time, we beg to furnish our reply with regard to point No. 22 of the above said questionnaire as under:*

1. *At the outset we may point out- that ours is an organizations set up by the dealers, trader and manufacturers or otherwise connected with the Stainless Steel industry. It is body registered under Societies Registration Act, 1860 at GUJ/15054/AHD. It is also registered under Bombay Public Trust Act, 1950 at No. F/4763/AHD dated 27/11/2009. It is also registered under section 12AA of the IT Act from 1-7-2009 vide order dated 15-7-2010. It is governed by the Memorandum and,Articles registered with Registrar of Societies on 27-11-2009. The relevant documents have already been provided to you along with the earlier replies.*

2. *The assessee Trust had organized world's first Stainless Steel fair called "INDLANOX-201G" at Ahmedabad during 16th to 19th January, 2010 which was inaugurated by Hon'ble chief Minister of Gujarat, Shri Narendra Modi and guest of honour was Ms. Mamta Benerji Union Cabinet Minister for Railway and Chief guest was Shri Veerbhadra Singh, Union Cabinet for Steel. As it would be noticed from the brochure and other material produced herewith there were 800 domestic exhibitors, 30 International exhibitors\*45 Exhibitions over 2 lacs footfalls. It displayed everything in stainless steel such as house ware, hardware, furniture, machinery, patta-patti, sanitary equipment etc. It was given International media coverage being first of its kind in the world and even China had not arranged such a mega event. It had raised funds by way of exhibition space charges and advertisement income. On the other hand it had incurred expenses such as publicity, decoration, media, stall fabrication & design salary, transportation etc. The details are evident from Sch-9 of the audited annual accounts for F.Y. 2009-10 furnished to you. Against the backdrop of the aforesaid facts of the case, the issue arises whether it involves the activity for profit as per Sec. 2(15).*

3. *It will be appreciated that running a Chamber of Commerce trade or professional organization for the purposes of rendering the services to the members of such organization by way of trade information, arbitration of disputes, representation to Government, arranging the programs for promotion or development of skill, knowledge etc. such as seminars, conferences*

*or trade fair amounts to the objects of general public utility and it would fall in the fourth head of charity. However to this a rider has been added that the object should "not involve the carrying on of any activity for profit". Therefore, if it contains as one of its ingredients the carrying on of a commercial or trading operations it would cease to be for a charitable purpose.*

*4. Now the activity of arranging a trade fair by the trade organization does not amount to the activity for various reasons such as:*

*(i) The perusal of the object clause of the assessee organization itself shows that it was formed as one of the object to organize arrangement in the interest of stainless steel industry. The relevant clause No (a) and (c) of Memorandum of association are reproduced hereunder for ready reference:*

*(a) To promote trading, dealing and manufacturing Stainless Steel and to protect the interest of members and to organize arrangement interest of members and organize arrangement interest of Stainless Steel Industries confined to the India and International market.*

*(c) To organize Exhibitions, Expo and fairs for promotion of the Stainless Steel product nationally and international.*

*Thus the arrangement of said fair was in the course of exercise of its objects. It was intended to promote the awareness and spread knowledge about the stainless steel industry amongst the merchants of the said industry and general public. The event was attended by about 2,00,000 people from all over the country. It will be appreciated that it is quite normal now days in any line of business, trade or professional organization to arrange such trade fair, exhibitions and conference and seminars at regular intervals. E.g. annual conference held by professionals like doctors, chartered accountants, architects etc. It provides a source of information as to the, technological developments, modern method of mfg. innovations etc taking place in the industry both in the country and abroad. The members of the organization keep themselves up-to-date as to such rapid changes taking place in the industry and its future. Unless such fairs,*

*conferences etc are not arranged by the Association neither its members nor such organization could keep pace with the fast changing world or render useful service to its members.*

*(ii) Secondary it will be appreciated that in this fair arranged by the assessee, there was nothing but display and there was no trading activities. When the activity at any stage involves buying and selling of goods or of services with a view of earning gain, the entire activity may become non-charitable. But in the present case this element is totally absent. The only intention behind arranging this fair was to promote the interest of the members and keep informed of the latest in the industry. There was no commercial element behind any activity in this fair. The entire nature of receipts and expenses as per audited P & L a/c proves this aspect. Reliance is placed on the decision of Surat Art Silk Manufacturers Assn. [121 ITR 1](SC) wherein it was held as under;*

*The pricing of the monthly journal would undoubtedly be made in such a manner that it leave some profits for the Gandhi peace Foundation as indeed would be done by any prudent and wise management but that cannot have the effect of the activity of publication would be to carry out the charitable purpose by propagating Gandhian Thoughts and Philosophy and not to make profit or in other words profit making would not be the driving this activity.*

*Applying this decision, it was held in case of CIT v. Automobile Association of Southern India (127 ITR 730) (Mad.) that the activities of an automobile association do not have the object of making profit but only to sub serve an object to general public utility. Thus, when an activity is carried out for the purpose of achieving the object of general public benefit, it cannot be said to mean that there was any profit making object of the trust in carrying on business activities.*

*We have to submit that the facts of our case are identical to the case of Surat Art Silk (supra) which was also an association established to promote trade and commerce in the commodities like aft silk, cotton yam, cotton doth and it derived income primarily from two sources, i.e., annual subscription from the members and commission from its members on the value of licenses. It was held amongst other that in the profit from the business feed charitable objects it is not an activity for profit so that the exemption need not to be lost. It was held in the case of Pinegrove international Charitable Trust (327 ITR 73) [PH] that a surplus by its-elf cannot be faulted in view of the need to generate funds. When the objects are genuine, the surplus cannot be treated as a sin. Profitable activity does not necessary mean that there is profit motive.*

*In view of the afore-mentioned position in law and facts of our case, it will be appreciated that the assessee-Trust was not established with the object of profit making but it had carried on the activity of organizing international trade fair so as to achieve its predominant object of promotion of stainless steel industry and its merchants. "*

*4.3 The submission made by the assessee has been carefully considered. The object of the assessee is to promote the objects of the trust to promote trading, dealing and manufacturing Stainless Steel and to protect the interest of members and to organize arrangement interest of members and organize arrangement interest of Stainless Steel Industries confined to the India and International market and to organize Exhibitions, Expo and fairs for promotion of the Stainless Steel product nationally and international, .there are many articles were displayed which made from stainless steel such as house ware, hardware, furniture, machinery, patta-patti, sanitary equipment etc. It was given International media coverage being first of its kind in the world and even China had not arranged such a mega event. The fund was raised by way of exhibition space charges and advertisement income. The objects and activity of*

*the assessee has to seen in the light of the provisions of Sec. 2(15) of the I.T Act.*

*Charitable objects defined in the section 2(15) of the Act are:*

- relief of the poor,*
- education,*
- medical relief,*
- preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and*
- the advancement of any other object of general public utility*

*It is very clear from the objects of the Trust as mentioned in its Article of Memorandum the main objects are to promote trading, dealing and manufactureing Stainless steel and to protect the interest of members .The assessee Trust had organized Stainless Steel fair called "INDLANOX-2010" at Ahmedabad during 16th to 19th January, 2010 from its brochure it is noticed from there were 800 domestic exhibitors and 30 International exhibitors. . The activity of the assessee was on the charging basic. The assessee charge entrance fees, earn through the selling of exhibition space and also from the exhibition advertisement charges. Therefore the assessee clearly falls under the category "advancement of any other object of general public utility ".*

*4.4 During the course of assessment for the year under consideration it is seen that the assessee charges entrance fee for visiting exhibition. The assessee earn through the selling of exhibition space amounts to Rs.3,71,08,743/-. On the TDS Certificate issued by deducting person shows the nature of payment as contractor, rent and fees. So it is clear that the assessee receives the income by selling the exhibition space and received this income. The said activity of the assessee can by no stretch of imagination be treated as charitable activity. The nature of the transactions carried out by the assessee clearly shows that the assessee is carrying on an activity*

*which falls under the last limb of the definition to 'charitable activity' u/s 2(15) of the Act i.e 'the advancement of any other object of general public utility'.*

*4.5 The assessee earned RS. 5,80,43,320/- in which Direct Income of Rs. 5,76,40,205/- and Other income of RS. 4,03,115/-, the assessee applied this income to the tune of Rs. 50780696/- (even related expenses Rs. 4,98,39,249/- and other expenses Rs. 7,49,085/-) for meeting out the expenses in which assessee paid. The following are the major expenses incurred by the assessee:*

<i>1. Advertisement Expenditure</i>	<i>Rs. 97,30,706/-</i>
<i>2. Consulting Expenditure</i>	<i>Rs. 13,83,000/-</i>
<i>3. Courier Expenditure</i>	<i>Rs. 5,11,118/-</i>
<i>4. Decoration Expenses</i>	<i>Rs. 92,94,801/-</i>
<i>5. Management Expenses</i>	<i>Rs. 1,01,41,777/-</i>

*4.6 The assessee held this fair/exhibition to promote their business. The holding of fair of the steel industrialist was not of charitable nature as the income to the tune of Rs. 5,76,40,205 /-are from the commercial organizations. These receipts are in fact commercial receipts, after deducting TDS by the deductor. In the case of donation, the donor will not deduct the TDS. Therefore, this is a commercial receipt. The fair was widely advertised and reported by the news papers. This organization does not have any past history to conduct this kind of conference. This conference does not provide any help to the masses. The activity of the trust is nothing but devise by eminent industrialist to promote their own brand/profile. This will leads to increase business of the participant industries which cannot be considered as charitable activity. The industrialist instead of spending from their pockets for enhancing their brand value have done by holding this exhibition. Thus it amounts to create commercial organization in the name of trust. The assessee charges entrance fees from the participants which clearly violation of section 2(15) of the I T Act. Therefore it will be hit by the proviso 1 & 2 of the*

*Section 2(15). Thus, the submission of the assessee is not acceptable that since it is clearly evident that the assessee is engaged in the activity of earning profit by selling exhibition space and receiving exhibition advertisement charge and entrance fees from the industrialist and visitors. The submission of the assessee is not relevant since the income earned is business income and the application of the said income is irrelevant in view of the first proviso to section 2(15) of the I. T. Act which is as under :-*

*"Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity: "*

*Therefore, as discussed in preceding paras, the assessee is not carrying out any charitable activity and is squarely covered by the proviso 1 & 2 of the Section 2(15) of the IT. Act.*

5. *With the introduction of Sec 13(8) of the Act, w.e.f 1/04/2009 (Finance Act 2012), it is clearly evident that the assessee whose case is squarely covered by the proviso to Sec 2(15) shall forfeit all the exemptions that are otherwise available u/s 11 and 12 of the Act. The relevant provisions are as under:*

*"(8) Nothing contained in section 11 or section 12 shall operate so as to exclude any income from the total income of the previous year of the person in receipt thereof if the provisions of the first proviso to clause (15) of section 2 become applicable in the case of such person in the said previous year. "*

*The new sub-section (8) provides that the exemption under section 11 & 12 will not be available to a Trust, in a previous year, in which the First proviso to section 2(15) becomes applicable, for that previous year.*

6. *Therefore, in the light of the provisions of Sec 13(8) of the Act, the assessee loses all the exemptions claimed u/s 11 & 12 of the Act. It is clear from the plain reading of the said provision that once proviso to Sec 2(15) becomes applicable to the facts of the case, all the*

*exemptions otherwise allowable u/s 11 and 12 are not available to the assessee in that previous year. Therefore, the assessee is not eligible to any of the exemption claimed u/s. 11 and 12 of the Act and the deductions as section 11 are disallowed and added back to the total income of the assessee. Therefore, the profit of the activity comes to Rs. 72,62,624/-, (income Rs. 58043320- expense Rs. 50780696/-) after allowing the expense incurred by the assessee.*

*6.1 The assessee's claim of deduction u/s. 11(1)(a) to set a part of the gross receipts i.e. Rs. 58043320/- of the trust worth Rs. 72,62,624/- is disallowed and added back to the income of the assessee.*

*6.2 The assessee's received Rs.77,00,000/- as membership fees, this membership are not allowed as the assessee is not granting the benefits of section 11 of the I.T. Act. claim of deduction u/s 11(2) worth Rs. 77,00,000/- is disallowed and added back to the income of the assessee.*

*6.3 The capital expenditure incurred by the assessee are not allowed as the assessee is denied the benefit of the section 11 & 12.. The assessee has claimed capital expenditure considering itself to be a trust governed u/s 11, 12 and 13 of the Act. Considering the fact that the deduction u/s 11 of the Act has been disallowed and the trust now being treated as an AOP, the income of the assessee has to be assessed as per normal provisions of the Act, under which the capital expenditure is not allowable as an expense. The capital expenditure worth Rs.14,03,554/- claimed by the assessee in its statement of income is disallowed and added back to the income of the assessee.”*

5. Against the said order, assessee preferred first statutory appeal before the Id. CIT(A) who granted the relief to the assessee.
6. Now Department is before us in appeal.

7. We have gone through the relevant record in the impugned order in support of its contention. Id. D.R. stated that Id. CIT(A) has wrongly given the relief to the assessee and stated that the fund was raised by way of exhibition space charges and advertisement income and TDS was also deducted. The objects and activity of the assessee has to be seen in the light of the provisions of Section 2(15) of the Income Tax Act. Charitable objects defined in the section 2(15) of the Act are:
- \* relief of the poor,
  - \* education,
  - \* medical relief,
  - \* preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and
  - \* the advancement of any other object of general public utility.
8. On the other hand, Id. A.R. stated that it is very clear from the objects of the Trust as mentioned in its Article of Memorandum the main objects are to promote trading, dealing and manufacturing Stainless steel and to protect the interest of members. The assessee Trust had organized Stainless Steel fair called "INDIANOX-2010" at Ahmedabad during 16th to 19th January, 2010 from its brochure it is noticed from there were 800 domestic exhibitors and 30 International exhibitors. The activity of the assessee was on the charging basis. The assessee charge entrance fees, earn through the selling of exhibition space and also from the exhibition advertisement charges. Therefore the assessee clearly falls under the category "advancement of any other object of general public utility". The assessee earned through the selling of exhibition space amounts to Rs. 37108743/-. On the TDS Certificate issued by deducting

person shows the nature of payment as contractor, rent and fees and in support of its contention. Ld. A.R. cited an order of ITAT Kolkata Bench in ITA No. 1491/Kol/2012 & ITA No. 1284/Kol/2012 for Assessment Years 2008-09 & 2009-10 titled as Indian Chamber of Commerce Vs. ITO wherein in similar circumstances ITAT Kolkata Bench granted relief to the assessee with following observation:-

*38. In view of the above discussion, we are of the considered view that in the given facts and detailed reading of the various judicial decisions through the years, interpreting the definition of "charitable purpose" as laid out in section 2(15) of the Act and also the definition of "business" in relation to the said section amply reveals that the theory of dominant purpose has always, all through the years, been upheld to be the determining factor laying down whether the Institution is Charitable in nature or not. Where the main object of the Institution was "charitable" in nature, then the activities carried out towards the achievement of the said, being incidental or ancillary to the main object, even if resulting in profit and even if carried out with non members, were all held to be "charitable" in nature. Hon'ble Apex Court in the earliest case of Andhra Chamber of Commerce (supra) had clearly laid out the principle that if the primary purpose of an Institution was advancement of objects of general public utility, it would remain charitable even if an incidental or ancillary activity or purpose, for achieving the main purpose, was profitable in nature. In our view the basic principle underlying the definition of "charitable purpose" remained unaltered even on amendment in the section 2(15) of the Act w.e.f. 01/04/2009, though the restrictive first proviso was inserted therein. Accordingly, in the given facts of the case as discussed above in detail, the assessee association's primary purpose was advancement of objects of general public utility and it would remain charitable even if an incidental or ancillary activity or purpose, for achieving the main purposes profitable in nature. Hence, assessee is not hit by newly inserted proviso to section 2(15) of the Act. This issue of assessed appeal is allowed. 39. In the result, both appeals of assessee are allowed.*

9. Assessee also cited an order of ITAT Kolkata Bench in ITA No. 735/Kol/2013 titled as ITO Vs. Indian Leather Products Association wherein

in similar circumstances relief was granted to the assessee with following observation:-

*Charitable Trust—Income of Charitable Trusts-Benefit u/s. 11—Assessee was Association duly registered u/s 12A—Assessee also held certificate u/s 80G—Assessee was carrying on charitable activities since 1988—Association of Assessee was formed by leather merchants for various activities such as spreading, knowledge among members, regarding the trade to remove hardship of members, to assist members in increasing volume by organizing trade shows, fairs, seminars and publishing of magazines for sole benefit and advantages of leather industry—Prime object of Assessee was to promote leather trade—During previous year, Assessee derived income from conducting trade shows, seminars, fairs, SVHC testing, leather goods park booking fees, fashion magazine and entry tickets for various trade shows—AO was of view that, Assessee was allowing outsiders also to participate by keeping their stall in trade fair organized by Assessee—AO was therefore of view that, Assessee was having dealings or relations with outside body and generating income—AO therefore concluded that, Assessee was deriving income by carrying on activity in nature of trade, commerce or business—AO accordingly denied benefit of exemption u/s 11 of the Act to Assessee—AO brought to tax gross receipts as per income and expenditure account after deducting expenditure incurred to tax—Before CIT(A) Assessee explained charitable nature of Assessee and submitted that, it was existing for charitable purpose—CIT(A) was of view that, main contribution from non-members was stall booking charges in trade fair organized by Assessee during previous year—He was of view that, as per First Proviso to S. 2(15), advancement of any other object of general public utility should not be charitable purpose, if it involved carrying on activity in nature of trade, commerce or business—Assessee had not carried out any such activity by charging rent from non-members for stalls in trade fair organized by Assessee—CIT(A) accordingly directed AO to compute income of Assessee without invoking First Proviso to Section 2(15)—Held, it could be seen from bye-laws of Assessee that, dominant and prime objective of Assessee was not profit making—Prior to introduction of the proviso to S 2(15), there was no dispute that, Assessee was established for charitable purposes—Contribution Assessee received from non-members in conducting trade fair was Rs.15,64,556— Total receipts of Assessee during previous year was sum of Rs.1,30,26,506—It could not be said that receipts from non-members constituted major receipts of Assessee—Expenses incurred in connection with*

***trade fairs and promotion events was Rs.29,03,411—It could not thus be said that, activity of organizing trade fairs and exhibitions and the act of collecting contribution from non-members rendered Assessee as organization existing for profit or was doing business or trade—Factual aspects and objects of Assessee would clearly show that, Assessee did not driven primarily by desire or motive to earn profits but to do charity through advancement of object of general public utility—This was substantiated by actual income received on operations of Assessee and expenditure incurred set out in earlier paragraphs of this order—Proviso to S.2(15) was therefore not applicable to case of Assessee—Assessee was entitled to benefits of S.11—AO had not disputed conditions necessary for allowing exemption u/s.11, except applicability of proviso to S.2(15)—Said proviso was not applicable to case of Assessee—Order of CIT(A), upheld—Assessee's income was not includible in total income—Appeal by Revenue was dismissed.***

10. As we can see, the assessee is in fact carrying out activities for charitable purposes and there is an excess of expenditure over income year after year and in similar circumstances relief have been granted by the ITAT Kolkata Benches and in our considered opinion, the assessee is entitled for claim of deduction u/s. 11 & 12 of Income Tax Act. After considering the above facts, we observe that the aims and object of the assessee trust were charitable in nature. The assessee has been granted registration u/s. 12AA of the Act and since its 1<sup>st</sup> year the assessee trust has carried out activities for charitable purposes. On perusal of the audited annual accounts for A.Y. 2011-12 to 2013-14 show that the assessee trust has spent more amounts on the object of the trust than the total receipts as mentioned below:-

A. Y.	Amount spent for object of trust	Total
2011-12	34,53,361/-	5,41,889/-
2012-13	12,57,968/-	4,62,409/-
2013-14	10,76,392/-	33,240/-

11. It is clear that there is an excess of expenditure over income year after year and the assessee trust has been carrying out activities for charitable purposes. We consider that the main object of the assessee trust was the promotion, protection and development of trade commerce and industry, therefore its income generated from trade fair etc. would be exempted from tax u/s. 11 r.w.s. 2(15) of the Act. In view of the above facts and findings, we are inclined with the decision of Id. CIT(A). Therefore, the appeal of the Revenue is dismissed.

12. In the result, the appeal filed by the Department is dismissed.

Order pronounced in Open Court on	14 - 05- 2018
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Sd/-

**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER** True Copy  
Ahmedabad: Dated 14/05/2018

Sd/-

**(MAHAVIR PRASAD)**  
**JUDICIAL MEMBER**

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar  
ITAT,Ahmedabad