

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में ।
**IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR**

**BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
DR. MITHA LAL MEENA, ACCOUNTANT MEMBER**

आयकर अपील सं. / ITA No. 353/RPR/2016

Chhattisgarh State Cricket Sangh,
35/75, Punjabi Colony, Katora Talab,
Raipur, CG-492 001.
PAN : AABTC1016F

.....अपीलार्थी / Appellant

बनाम / V/s.

The Commissioner of Income Tax
Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Praveen Jain, CA
Revenue by : Shri P.K. Mishra, CIT-DR

सुनवाई की तारीख / Date of Hearing : 16.05.2019
घोषणा की तारीख / Date of Pronouncement : 16.05.2019

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM :

This appeal preferred by the assessee emanates from the order of the
Ld. CIT(Exemption) dated 30.05.2014 as per the grounds of appeal on
record.

2. At the outset, we notice that the present appeal is time barred by 878 days. The assessee has filed an affidavit along with condonation of delay petition. We have gone through the condonation petition as well as the affidavit and have found that reasons specified therein are justified and that the delay cannot be attributed to the deliberate conduct of the assessee neither through intention nor through action. The reasons for delay in filing the appeal late were beyond the control of the assessee and even the Ld. DR stated that he has no objection, if the delay is condoned. In view of the matter, we condone the delay and proceed to hear the appeal on merits.

3. The crux of the grievance of the assessee in this appeal is rejection of application for granting registration u/s.12AA of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

4. At the time of hearing, the Ld. AR of the assessee appraised the Bench that the basic reason for rejection of application u/s.12AA of the Act on the part of the Revenue is that according to the Revenue the assessee is hit by proviso to section 2(15) of the Act. Meaning thereby according to the Revenue, the assessee is engaged in activities of business, trade and commerce or is rendering services in relation to such business, trade or commerce and therefore, registration u/s.12AA of the Act was

denied to the assessee. That furthermore, it is the observation of the Revenue that since the assessee trust is receiving grant from BCCI and that BCCI itself is involved in IPL matches and therefore, the activities are in the nature of trade, commerce or business.

5. The Ld. AR vehemently argued that the only object of the assessee trust is promotion of Cricket in the State of Chhattisgarh and to bring in new talent in the sports whereby the deserving players can represent the country at some point of time. The grant/subsidy received from BCCI is in the nature of associate services required during IPL matches which involves drinking water facility, ground maintenance, security etc. The entire IPL matches revenue transactions are undertaken by the respective franchisee and the assessee trust has nothing to do with it. The assessee trust also conducts charitable matches, coaching camps for which expenses are incurred and those are reimbursed from BCCI since the assessee trust is only authorized body of BCCI in the state of Chhattisgarh. The Ld. AR further submitted that on similar facts and situation and on merits in assessee's own case in ITA No. 265/RPR/2017, this Co-ordinate Bench has considered these issues. That on similar facts and circumstances on merits, the Ld. AR prayed that in the instant case also, prayer for registration u/s.12AA of the Act may be accepted.

6. Per contra, the Ld. DR has placed reliance on the order of the Ld. Commissioner of Income Tax (Exemption).

7. We have perused the case records and heard the rival contentions and considered the various judicial pronouncements placed on record. We find that in assessee's own case in ITA No.265/RPR/2017, we have observed in detail the merits of the assessee's case on similar issue wherein we have held as under:

"7. We have perused the case records and heard the rival contentions. We have also analyzed the facts and circumstances in this case. The assessee society has made an application before the Ld. CIT(Exemption) u/s.12AA of the Act for granting registration. It is settled view as held by the various Co-ordinate Bench of the Tribunal as well as Hon'ble High Court that at the time of granting registration, the matter to be looked into are the objects of the applicant and whether past activities are concerned with such objects. If these are according to the provisions of law, then registration can be granted. However, if at the assessment stage, it is noticed that funds are not utilized for charitable purposes then the Assessing Officer may reject the exemption u/s.11 and 12 of the Act in respect to the concerned assessee. At the time of granting registration u/s.12AA of the Act, if the objects are charitable in nature then registration u/s.12AA has to be granted to such assessee.

That on perusal of the objects of the assessee society in the instant case, it is predominantly for promotion of Cricket in the State of Chhattisgarh and to bring out new talent in the field of Cricket so that they can represent the state as well as country under supervision of BCCI being parent body of Cricket in India. The assessee society is solely authorized body to BCCI so far as the Chhattisgarh is concerned. The assessee society is receiving money from BCCI in respect of conducting Cricket coaching camps, charitable matches so that from assessee society, new talent can be brought in. Even with regard to the IPL matches, all the revenue transaction are done by the franchisee in such IPL tournament. Whenever the matches are held in Chhattisgarh, the maintenance part and security part are taken care of by the assessee and for this purpose, certain amount is paid by the

BCCI and the assessee has to meet up the expenses for these activities. The assessee society is therefore well within the definition of charitable purpose as enshrined u/s.2(15) of the Act under the limb of advancement of any other object of general public utility. Now the proviso to section 2(15) of the Act provides embargo with regard to this limb i.e. 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.

8. *In order to adjudicate the proviso to section 2(15), we would revert to the factual position with regard to issue in hand:*

Cricket is indeed an immensely popular game in this part of the world, and anything to do with cricket results in mass involvement of public at large. The sheer strength of these numbers results in higher visibility of cricketing activities and the scale of operations on which the work for development of cricket is to be carried out. These facts, by itself, and without the assessee before us deviating from their objects or venturing into trade, commerce or business, cannot require the activities to be treated as commercial activities. When a cricket stadium is to be built, it has to accommodate a very large number of persons but the size of the stadium would not mean that the activity is for anything other than promotion of cricket. When the scale of operations are larger, even the surplus or deficit could be large, but then the scale of operations may be a scale on which commercial activities could be carried out but that fact cannot convert an object of general public utility into a commercial activity. We have carefully analysed the objects of the assessee, and we do not find any objects, other than object of cricket, being pursued by these cricket associations. The objects of these cricket associations clearly demonstrate that these cricket associations exist and operate purely for the purpose of promoting cricket. Therefore, in our considered view the proviso to Section 2(15) cannot be invoked in the case of the assessee.

9. *We find that in the case of **DCIT Vs. Tamil Nadu Cricket Association (supra.)** before the Co-ordinate Bench of the Tribunal, Chennai, the facts are that the assessee society was affiliated to Board of Control for Cricket in India and assessee derives income from subscription, rent for hiring cricket ground, sponsorship, fee for providing service to IPL, income from advertisement, subsidy/subvention from BCCI sale of tickets for conducting matches, restaurant and catering income. Assessee claimed exemption u/s.11 of the Act and the Assessing Officer disallowed the claim of the*

assessee mainly on the ground that activity of the assessee was commercial in nature. The Assessing Officer also found that proviso to section 2(15) would come into operation since gross receipts of assessee exceeded prescribed limit and the Ld. CIT(A) upheld that order. The Co-ordinate Bench of the Tribunal, Chennai has held that activity of the assessee could not be considered to be business activity. The assessee was not providing any services to any trade or commerce or industry. Therefore, the proviso to section 2(15) was not applicable to the assessee and the assessee was entitled for exemption u/s.11 of the Act.

In the present case also, the assessee is receiving money from BCCI as subsidy for providing services in the IPL matches, for conducting Cricket matches for hiring ground only to promote the Cricket and encouraging new talent in the field of Cricket and objects of all the other Cricket associations of any other state are similar in nature. Therefore, the assessee has not provided any services to any trade, commerce or industry as defined in the proviso to section 2(15) of the Act.

10. *The Hon'ble Apex Court in the case of **CIT Vs. Gujarat Maritime Board reported (supra.)** has held that if the primary purpose and the predominant object is for welfare of general public then the purpose would be charitable in nature.*

11. *Before us, the Ld. AR of the assessee also submitted that predominant object and activity of all the State Association affiliated to BCCI are almost similar. Almost all the state associations are enjoying benefit of 12A and the assessee is denied of the same in spite of being engaged in exactly same activity. The Ld. AR of the assessee has placed reliance on the decision of the **Hon'ble Bombay High Court in ITA No.500 to 504/Nag/2016 in the case of Tax Practitioner Benevolent Fund Vs. CIT reported in 266 ITR 561** wherein it was held that when objects of two institutions are similar then it is not open to the Income Tax Department to apply different parameters to different trusts carrying similar objects and similar purposes seeking grant of exemption u/s.80G of the Act.*

We have already analyzed the objects of the trust vis-a-vis other Associations of various other State under BCCI supervision for promoting Cricket. We have also examined that the objects of the other State's Associations are similar to that of the assessee and when those Associations are enjoying the benefit of 12A and exemption u/s.80G of the Act then the assessee on the similar parameters and objects is entitled for registration u/s.12AA of the Act and exemption u/s.80G of the Act. Moreover, the facts demonstrate

that this is not a Private Trust for the benefit of a single family but a society in which any person of general public of any caste, community or creed can become the member of the assessee society without any restriction. The assessee society runs through its members. The society performs all the function only through its members. The members of the society are fully dedicated to achieve the main object of the society. All the objects of the society are for the promotion of Cricket. Society has been formed with the like-minded members whose aim is to promote Cricket sports in India. The object nowhere speaks or intends to provide any financial assistance to its members.

12. *We have already examined that the assessee is not hit by the proviso to section 2(15) of the Act since it does not conduct any service or activities which are in the nature of trade, commerce or business. All the facts being examined vis-à-vis taking into consideration of judicial pronouncements placed before us and examining object of the assessee's society provides that it is for charitable purpose for advancement of any other object of general public utility. The Hon'ble Apex Court in the case of case of CIT Vs. Gujarat Maritime Board (supra.) has held that if the primary purpose and the predominant object is for welfare of general public then the purpose would be charitable in nature.*

13. *The Hon'ble Supreme Court of India in the case of **Ahmedabad Rana Caste Association Vs. Commissioner of Income Tax (1971) 82 ITR 0704** wherein it has been held that the object of the trust may be charitable in nature and an object beneficial to a section of public is an object of general public utility. The section of public must be definite and identifiable and it is not necessary that the object should benefit the whole mankind.*

In the case of the assessee, since it is for promotion of Cricket, it may not be benefiting the entire mankind but those being benefited are definitely identifiable and they are sections of public.

14. *In the instant case of the assessee, the work of the assessee society is to promote Cricket so as to bring forth new talents and provide opportunity to the people for representing the State as well as the Country. Therefore, the object of the assessee is for charitable purpose and nothing else. In view of the matter and as per the aforesaid discussion of facts and judicial pronouncements, we set aside the order of the Ld.CIT(Exemption) and direct the Ld.CIT(Exemption) to grant registration u/s.12AA of the Act to the assessee society.*

15. *In the result, appeal of the assessee is allowed.*”

Respectfully, following the aforesaid decision, we direct the Ld. Commissioner of Income Tax (Exemption) to grant registration u/s.12AA of the Act to the assessee society.

8. In the result, appeal of the assessee is allowed.

Order pronounced on 16th day of May, 2019.

Sd/-
MITHA LAL MEENA
ACCOUNTANT MEMBER

Sd/-
PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

रायपुर/ RAIPUR ; दिनांक / Dated : 16th May, 2019.
SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT (Exemption), Raipur.
4. The JCIT(Exemption), Raipur.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच, रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

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आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.