

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"D" BENCH, AHMEDABAD**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**  
**& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 955/Ahd/2016  
(निर्धारण वर्ष / Assessment Year : 2012-13)

<b>Surat Urban Development Authority (SUDA)</b> Suda Bhavan, Nr. Collector Office, Nanpura, Surat - 395001	<b>बनाम/</b> Vs.	<b>Dy.CIT (Exemptions)</b> Circle-2, Ahmedabad
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

&

आयकर अपील सं./I.T.A. Nos. 2432 & 2433/Ahd/2017  
(निर्धारण वर्ष / Assessment Years : 2013-14 & 2014-15)

<b>Dy.CIT (Exemptions)</b> Circle-2, Ahmedabad	<b>बनाम/</b> Vs.	<b>Surat Urban Development Authority (SUDA)</b> Suda Bhavan, Nr. Collector Office, Nanpura, Surat - 395001
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAALS0197G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Assessee by :	Shri Prateek Tosniwal, A.R.
राजस्व की ओर से/Revenue by :	Shri Surendra Kumar, CIT. D.R.

सुनवाई की तारीख / Date of Hearing	18/02/2020
घोषणा की तारीख /Date of Pronouncement	20/02/2020

## आदेश/ORDER

### PER PRADIP KUMAR KEDIA - AM:

The captioned appeals by the Assessee and Revenue are directed against the Commissioner of Income Tax (Appeals)-9, Ahmedabad. The relevant details are tabulated as under:

ITA Nos.	Name of assessee	AY	CIT/ CIT(A)'s order dated	AO's penalty order dated	AO's order under Section
955/Ahd/16	Surat Urban Development Authority (SUDA)	2012- 13	10.02.2016	24.03.2015	143(3) of the Income Tax Act, 1961 (in short 'the Act')
2432/Ahd/17	-Do-	2013- 14	28.08.2017	28.03.2016	-Do-
2433/Ahd/17	-Do-	2014- 15	-Do-	21.12.2016	-Do-

2. The grievances raised being common in all three appeals were heard together and disposed of by way of the common order.

3. We shall take up appeal assessee's appeal in ITA No.955/Ahd/2016 concerning AY 2012-13 as a lead case for adjudication.

### ITA No. 955/Ahd/2016 - AY- 2012-13 (Assessee's appeal)

4. The grounds of appeal filed by the assessee read as under:

- "1. On the facts and circumstances of the case as well as law on the subject, the learned Assessing Officer as well as Ld. Commissioner of Income Tax (Appeals)-9, Ahmedabad have erred in holding that assessee is not entitled to the benefit of section 11 & 12 of the Income Tax Act, 1961.*
- 2. On the facts and circumstances of the case as well as law on the subject, the learned Assessing Officer as well as Ld. Commissioner of Income Tax (Appeals)-9, Ahmedabad have erred in holding that first & second proviso to section 2(15) of the Act, 1961 is applicable in the assessee's case.*

3. *On the facts and circumstances of the case as well as law on the subject, the learned Assessing Officer as well as Ld. Commissioner of Income Tax (Appeals)-9, Ahmedabad have erred in disallowing exemption of INR 37,50,00,000/- claimed u/s 11(2) of the Act, 1961 & deduction of INR 9,10,65,153/- claimed on account of income u/s 11(1)(a) of the Act 1961.”*

5. When the matter was called for hearing, the learned AR for the assessee submitted that the assessee is a regulatory body created by State Government u/s 22 of Gujarat Town Planning and Urban Development Act (GTPUDA), 1976 for proper development of specified area in the state which is supposed to be ensured by the State Government. It was submitted that the assessee is just like a government body functioning for and on behalf of State Government. As further stated, the very purpose of the above Act is to ensure the development of various areas of the state in a phased and planned manner. The Government of Gujarat as per the provisions of GTPUDA, 1976 had constituted SUDA as an Urban Development Authority by its notification No. GHB/23 UDA/1177/646(5) QZ, dated 13.U1.1978. The reason for enactment of GTPUDA, 1976 is the development of areas for public purpose and to create better environmental condition. Following are the main tasks of the SUDA:

- Working for the preparation and implementation of development measures.
- Surveying for the development of areas and land acquisition.
- Managing urban development schemes.
- Working for water systems, sewage and other facilities and services.

In view of the various provisions of Gujarat Town Planning and Urban Development Act, 1976 it is claimed that assessee cannot purchase any land & in fact assessee has not purchased any land. As per provisions of the above Act it is very much clear that assessee can acquire the land either by agreement or under the provisions of Land Acquisition Act only in the cases envisaged clauses (b), (d), (k) & (n) of sub-section (2) to section 12 of said Act. It was submitted that a perusal of said clauses

would reveal that land can be reserved for public purposes such as schools, colleges & other educational institutions, transport & communications. prevention or removing pollution of water or air caused by discharge of waste etc. Further, said acquisition can be made only by way of reservation u/s 40(3)(j) and (jja) of the Act and said reservation is limited to the specified percentage of total land acquired under the town planning scheme. This reservation can be made for the purpose of providing housing accommodation to the members of socially & economically backward classes of the people. Further, land to the extent of 15% can be allotted for sale for residential, commercial or industrial use subject to the fact that proceeds shall be used for the purpose of providing infrastructural facilities.

5.1 It was further submitted that as per Section 2(15) of the Act. 1961, an assessee is considered as a charitable institution if it is involved in any of the following purposes, namely:

- > Relief of the poor.
- > Education.
- > Medical relief.
- > Preservation of environment (including watersheds, forests and wildlife).
- > Preservation of monuments or places or objects of artistic or historic interest.
- > Advancement of any other object of general public utility.

5.2 Further, it was contended that the first proviso to section 2(15) of the Act states that advancement of any other object of general public utility shall not be a charitable purpose if it involves carrying on

- any activity in the nature of trade, commerce or business; or
- any activity of rendering any service in relation to 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. It was thus contended that the first proviso to section 2(15) shall apply in respect of only last limb of section 2(15). Thus, if an

institution is involved in providing relief of the poor, education, medical relief, preservation of environment or monuments or places or objects of artistic or historic interest, then it shall continue to constitute 'Charitable purpose' even if it incidentally involves the carrying on of commercial activities.

5.3 The learned AR submitted that the Surat Urban Development Authority (SUDA) is the umbrella organization of Gujarat Government. The Authority takes over the new infrastructure developments, residential projects for people falling in low and middle income group. Since the assessee trust is engaged in providing easily affordable residence to low and middle income group, hence the assessee comes under the purview of "Relief to Poor" within the definition of Charitable Purpose.

5.4 It was next submitted that since Surat is a city of industries and enterprises, authority is also with several other governmental and private agencies concerned to ensure planned development of trade and industry taking consideration the environmental aspects. It was thus submitted that the development of district of Surat by providing house, roads, development and maintenance of parks (boost to environment), plantation of trees (again pertaining to environment), providing sewerage systems (clean and healthy environment) are all objects of welfare of the people of the district. Further, together with the new developments, the Authority also has to keep fresh and renovate the historic sites and natural attractions of the assigned to SUDA.

5.5 It was also submitted that irrespective of the fact the assessee trust is engaged in development of various areas as per the provisions of the above Act which is for the public at large, the assessee trust does not fall under the last limb of the definition of Charitable purpose. Since the assessee is engaged in above mentioned charitable purpose, hence it is not right to apply first proviso to Section 2(15) of the Act.

5.6 Reliance was placed on the recent decision of the Hon'ble Gujarat High Court in the similar case of Ahmedabad Urban Development Authority (AUDA) vs Assistant Commissioner of Income Tax (Exemptions) 183 taxmann.com 781 (Gujarat) (2017). where the court was called upon to decide as to whether AUDA constituted under Gujarat Town Planning and Urban Development Act, 1976, to undertake preparation and execution of town planning schemes and to execute works in connection with supply of water, disposal of sewerage and provision of other services and amenities, could be said to be providing general public utility services within meaning of section 2(15) and, thus, can claim for exemption of income under section 11 of the Act.

5.7 The Hon'ble Gujarat High Court held that:

*"From the various provisions of the Town Planning Act. it can be gathered that assessee has been constituted as Urban Development Authority under the provisions of section 22 of the Town Planning Act. The purpose and object of constitution of the Urban Development Authority is proper development or re-development of urban area. Even Urban Development Authority consists of (i) a Chairman to be appointed by the State Government; (ii) such persons, not exceeding [four in number] who are members of the local authority or authorities functioning in the urban development area, as may be nominated by the State Government; (iii) three officials of the State Government, to be nominated by that Government, ex-officio; (iv) the Presidents of the district panchayats functioning in the urban development area, or, as the case may be, part thereof, ex-officio; (v) the Chief Town planner or his representative, ex-officio; (vi) the Chief Engineer or Engineers (Public Health) of the local authority or authorities functioning in the urban development area or his or their nominee or nominees, ex-officio: 5[(vi-a) the Municipal Commissioner of the Municipal Corporation, if any, functioning in the urban development area, ex-officio;] (vii) a member secretary to be appointed by the State Government who shall also be designated as the Chief Executive Authority of the Urban Development Authority.*

*Thus, the constitution of the Urban Development Authority is subject to the control of the State Government. The powers and functions of the Urban Development Authority are contained in section 23. Considering section 40 of the Town Planning Act, the Town Planning Scheme prepared by the Urban Development Authority which has been prepared subject to sanction by the State Government for development of the Urban Development Area, also provide for roads, open spaces, gardens, recreation grounds, schools, markets, green-belts, dairies, transport facilities, public purposes of all kinds: drainage, inclusive of sewerage, surface or sub-soil drainage and sewage disposal; Lighting; Water supply etc.*

*The Town Planning Scheme also provides for historical or national interest or natural beauty, and of buildings actually used for religious purposes. The Scheme also provides for reservation of land to the extent often percent, or such percentage as near thereto as possible of the total area covered under the scheme, for the purpose of providing housing accommodation to the members of socially and economically backward classes of people. As per section 40(i)(jj)for the aforesaid purposes certain percentage of total area covered under the scheme are allotted earmarked. Fifteen percent of total area is allotted for the purpose of roads, five percent for parks, play grounds, gardens and open space, five percent for social infrastructure such as school, dispensary, fire brigade, public utility place as earmarked in the Draft Town Planning Scheme and Fifteen percent for sale by appropriate authority for residential, commercial or industrial use depending upon the nature of development. Last Fifteen percent is earmarked under the Town Planning Scheme for sale, by appropriate authority for residential, commercial or industrial use.*

*The appropriate authority/Urban Development Authority is permitted to sale the said plots/lands to the extent of 15 per cent of the total area to meet with the expenditure towards drainage, roads, gardens, schools, markets, water supply etc. So that maximum price can be fetched and the same can be utilized for {he development of the Urban Development Area and so as to avoid any allegation of favouritism and nepotism, the plots are sold by public auction. It is required to be noted the entire amount realized by the assessee being Urban Development Authority either by selling plots or by recovery of some fees/charges, Urban Authority is required to use only for the purpose of development in the Urban Development Area and not for any other purpose.*

*The Tribunal has observed and held that as the assessee is selling the plots, to the extent of 15 per cent of total area, by public auction and gets maximum amount, it amounts to prof her ing and therefore, the activities of the assessee can be said to be in the nature of business. However, while holding so. Tribunal has not properly appreciated the object and purpose of permitting the Urban Development Authority to sell the plots, maximum to the extent of 15 per cent of the total area i. e. to meet with the expenditure for providing them infrastructural facilities like gardens, roads, lighting, water supply, drainage system etc. The Tribunal has also not properly appreciated the reasons for selling the plot by holding public auction i. e.: (1) to avoid any further allegation of favouritism and nepotism and (2) so that maximum market price can be fetched, which can be used for the development of the Urban Development Area. [Para 12]*

*Applying the ratio of various earlier decisions on similar issues to the facts of the case on hand and with respect to the activities of the AUDA-Ahmedabad Urban Development Authority under the provisions of the Gujarat Town Planning Act by no stretch of imagination, it can be said that the activities of the assessee (A UDA) can be said to be in the nature of trade, commerce or business and/or its object and purpose is profiteering. Merely because under the statutory provisions and to meet with the expenditure of Town Planning Scheme and/or providing various services under the Town Planning Scheme, such as road, drainage, electricity, water supply etc. if the assessee is permitted to sale the plots (land) to the extent of 15 per cent of the total area under*

*the Town Planning Scheme and while selling the said plots they are sold by holding the public auction, it cannot be said that activities of the assessee is profiteering, to be in the nature of trade, commerce and business. [Para 13]*

*Considering the aforesaid facts and circumstances and more particularly, considering the fact that the assessee is a statutory body - Urban Development Authority constituted under the provisions of the Act, constituted to carry out the object and purpose of Town Planning Act and collects regulatory fees for the object of the Acts; no services are rendered to any particular trade, commerce or business; whatever the income is earned/received by the assessee even while selling the plots (to the extent of 15 per cent of the total area covered under the Town Planning Scheme) is required to be used only for the purpose to carry out the object and purpose of Town Planning Act and to meet with expenditure while providing general utility service to the public such as electricity, road, drainage, water etc. and even the entire control is with State Government and even accounts are also subjected to audit and there is no element of profiteering at all, the activities of the assessee cannot be said to be in the nature of trade, commerce and business and, therefore, proviso to section 2(15) of the Act shall not be applicable so far as assessee is concerned and, therefore, the assessee is entitled to exemption under section II of the Act. [Para 14]*

*Now, so far as another question which is posed for the consideration of this Court i.e. whether while collecting the cess or fees, activities of the assessee can be said to be rendering any services in relation to any trade, commerce or business is concerned, for the reasons stated above, merely because the assessee is collecting cess or fees which is regulatory in nature, the proviso to section 2(15) of the Act shall not be applicable. As observed hereinabove neither there is element of profiteering nor the same can be said to be in the nature of trade, commerce or business. [Para 15]*

*Having regard to the facts of the case and purpose for which the assessee is established/constituted under the provisions of the Gujarat Town Planning Act, collection of fees and cess is incidental to the object and purpose of the Act. and, thus, the case would not fall under second part of proviso to section 2(15). [Para 15.1]*

*Thus, the Tribunal has committed a grave error in holding the activities of the assessee in the nature of trade, commerce or business and, consequently, holding that the proviso to section 2(15) would be applicable and, therefore, the assessee is not entitled to exemption under section 11.*

*For the reasons stated above, it is held that the proviso to section 2(15) would not be applicable so far as assessee- A UDA is concerned and as the activities of the assessee can be said to be providing general public utility services, the assessee is entitled to exemption under section II. [Para 15.2]*

*In view of the above, the impugned order passed by the Tribunal is set aside. Accordingly, the assessee's appeal is allowed. [Para 16] "*

5.8 On the similar footing, it was contended that SUDA is an autonomous body which was established under section 22 of the Gujarat Town Planning and Urban Development Act, 1976 (XXVII of 1976) and Rules made under carrying Planned Development of areas as defined and designed by the Government of Gujarat and also infrastructural activities relating thereto such as to undertake the preparations of development plans, monitoring and control of development of town planning as construction of roads, bridges and carry out work in connection with supply of water and disposal of sewerage and provisions for other services and activities such as drainage system, water connection, etc. for the benefit of public at large. SUDA is constituted to carry out the object and purpose of Town Planning Act and collects regulatory fees for the object of the Acts; no services are rendered to any particular trade, commerce or business. Whatever the income is earned/received by the assessee is required to be used only for the purpose to carry out the object of Town Planning Act and to meet the expenditure while providing general utility service to the public such as electricity, road, drainage, water etc. Also, the entire control is with State Government and even accounts are also subjected to audit. As there is no element of profiteering at all, the activities of the assessee cannot be said to be in the nature of trade, commerce and business having regard to the facts of the case and purpose for which the assessee is established/constituted under the provisions of the Gujarat Town Planning Act, collection of fees and cess are regulatory fees and are incidental to the object and purpose of the Act. It was thus contended that the case would not fall under second part of proviso to section 2(15) of the Act. Therefore, proviso to section 2(15) of the Act shall not be applicable so far as assessee is concerned and, therefore, the assessee is entitled to exemption under section 11 of the Act.

5.9 Coming to the specifics, it was contended that as per section 11(2), where eighty-five per cent of the income referred to in clause (a) or clause (b) of sub-section (1) read with the Explanation to that sub-section is not applied, or is not deemed to have been applied, to

charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—

(a) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(c) the statement referred to in clause (a) is furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

Explanation.—Any amount credited or paid, out of income referred to in clause (a) or clause (b) of sub-section (1), read with the Explanation to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter. In this backdrop, it was contended that the amount accumulated or set aside by SUDA of Rs.37,50,00,000/- is as per section 11(2) which can be claimed as deduction and hence, no addition can be made on the account of same.

5.10 As regards addition of Rs.9,10,65,153/-, it was submitted that as per Section 11(1) of the Act, 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;

In this background, it was submitted that the accumulation u/s 11(1)(a) of the Act is eligible for 15% deduction under the Act if the trust fails to apply the entire income of the year. Therefore, the addition is not justified as SUDA is eligible to claim INR 9,10,65,153/- as 15% deduction u/s 11(1)(a) of the Act as the application of funds need not be more than 85%.

5.11 It was next contended that the Commissioner of Income Tax (Appeals) - 9, Ahmedabad has passed an order for A.Y. 2009-10, A.Y. 2010-11, A.Y. 2011-12, A.Y. 2013-14 and A.Y. 2015-16 granting the assessee the benefit of deduction under section 11 r.w.s. 2(15). The Commissioner of Income Tax (Appeals) - 9, Ahmedabad in the order has stated that "The main issue raised by the appellant [SUDA] is covered by the latest judgement of Hon 'ble Gujarat High Court in the case of AUDA vs ACIT in ITA No. 423, 424, 425 of 2016 dated 02.05.2017. .... Both, i.e. the appellant and AUDA are constituted as Authorities under the Gujarat Town Planning and Urban Development Act, 1976. The powers and functions of both the authorities have been laid down under the said Act and are identical in nature. Nowhere in the order of assessment the AO pointed out that the appellant [SUDA] has undertaken functions beyond the mandate of Gujarat Town Planning and Urban Development Act. The appellant [SUDA] is registered u/s 12A of the Act. It was thus contended that, as held by Hon'ble Gujarat High Court in decision quoted

above, the assessee cannot be considered to be covered by the proviso to section 2(15) of the Act and hence AO cannot withdraw the claim of exemption by invoking proviso to section 2(15) r.w.s. 13(8) of the Act. As a corollary, the assessee cannot be assessed u/s 28 to 44 of the Act. "

6. The learned DR, on the other hand, relied upon the orders of the lower authorities but could not bring any distinction *qua* the decision taken in the case of Ahmedabad Urban Development Authority (*supra*).

7. We have carefully considered the rival submissions. In the instant case, Tribunal has been called upon to adjudicate whether assessee is entitled to benefit of Section 11 and Section 12 of the Act in the circumstances of the case or not. As a necessary concomitant thereto, an incidental question arises as to whether the first and second proviso to Section 2(15) of the Act is applicable in the facts of the case or not and consequently, the activity of the assessee can be regarded as charitable activities within the meaning of Section 2(15) of the Act or not. The AO, in the instance case, has disallowed exemption of Rs.37,50,00,000/- claimed under s.11(2) of the Act and further denied the deduction of Rs.9,10,65,153/- claimed on account of accumulation of income under s.11(1)(a) of the Act holding the activity of the assessee authority to be non-charitable in nature. We find that in the similar facts, the co-ordinate bench in *Vadodara Urban Development Authority vs. ITO* in ITA No. 2751/Ahd/2014 order dated 28.01.2019 has placed reliance upon the decision of the Hon'ble Gujarat High Court in the case of *Ahmedabad Urban Development Authority (supra)* and *CIT vs. Gujarat Industrial Development Corporation (2017) 89 taxmann.com 366 (Guj)* and adjudicated the issue in favour of the assessee. The relevant operative para of the order of the co-ordinate bench of Tribunal in *Vadodara Urban Development Authority (supra)* is reproduced hereunder for ease of reference:

*"4. We have heard the respective parties, perused the relevant materials available on record. We find that in similar set of facts the Jurisdictional High Court passed the orders in the case of Urban Development Authority-vs-ACIT, where it was held as follows:*

*"Held, that the object and purpose of permitting the Authority to sell the plots to a maximum extent of 15% of the total area, was to meet the expenditure for providing infrastructural facilities like gardens, roads, lighting, water supply, drainage system, etc. The reasons for selling the plots by holding public auction were; (a) to avoid any further allegation of favoritism and nepotism and (b) so that the maximum market price could be fetched, which could be used for the development of the urban development area. Considering the fact that the assessee was a statutory body, an Authority constituted under the provisions of the Act, to carry out the object and purpose of Town Planning Act and collected regulatory fees for the object of the Acts, no services were rendered to any particular trade, commerce or business; and whatever income was earned by the assessee even while selling the plots (to the extent of 15% of the total area covered under the Town Planning Scheme) was required to be used only for the purpose to carry out the object and purpose of the Town Planning Act and to meet the expenditure of providing general utility service to the public such as electricity, road, drainage, water etc. and the entire control was with the State government and accounts were also subjected to audit and there was no element of profiteering at all. The activities of the assessee could not be said to be in the nature of trade, commerce and business and therefore, the proviso to Section 2(15) of the Act was not applicable so far as the assessee was concerned. Therefore, the assessee was entitled to exemption under section 11."*

*Apart from that CIT-vs.-Gujarat Industrial Development Corporation, wherein it was held as follows:*

*"Section 2(15), read with section 11, of the Income-tax Act, 1961 - Charitable purpose (Objects of general public utility) - Assessment year 2009-10 - Whether where assessee - corporation was constituted under Gujarat Industrial Development Act, 1962, for purpose of securing and assisting rapid and orderly establishment and organization of industrial areas and Industrial estates in State of Gujarat, and for purpose of establishing commercial centers in connection with establishment and organization of such industries it could not be said that activities carried out by assessee were either in nature of trade, commerce or business, for a Cess or Fee or any other consideration so as to attract proviso to section 2(15) and same could be said to be for charitable purpose and, consequently,. Assessee was entitled to exemption under section 11- Held, yes (Paras 15 and 17)[In favour of assessee]"*

*5. We find that the object of the assessee is similar to that of the corporation before the Jurisdictional High Court and on the similar set of facts the appeal was allowed in favour of the assessee hence relying upon the same we allow the claim of the assessee and the disallowance of exemption as claimed by the assessee u/s 11 of the Act to the tune of Rs.70,73,005/- is hereby quashed and addition made thereon is thus deleted.*

6. *In the result, assessee's appeal is thus allowed."*

8. In the light of the decision rendered by the Hon'ble Gujarat High Court and applied by the co-ordinate bench in *Vadodara Urban Development Authority (supra)* and *Gandhinagar Urban Development Authority vs. DCIT ITA No. 3621/Ahd/2015* order dated 23.07.2019, we find merit in the plea raised on behalf of the assessee for holding the activities of assessee to be for charitable purposes under s.2(15) of the Act and consequence eligibility of benefits under s.11 & Section 12 of the Act. The order of the CIT(A) is thus set aside and the AO is directed to grant relief claimed under s.11(2) and 11(1)(a) of the Act to the assessee in accordance with law.

9. In the result, assessee's appeal in ITA No.955/Ahd/2016 is allowed whereas Revenue's appeals in ITA Nos. 2432 & 2433/Ahd/17 are dismissed.

**This Order pronounced in Open Court on 20/02/2020**

Sd/-  
(MAHAVIR PRASAD)  
JUDICIAL MEMBER  
Ahmedabad: Dated 20/02/2020

Sd/-  
(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

True Copy

*S. K. SINHA*

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /  
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण, अहमदाबाद ।