

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH, 'B' PUNE – VIRTUAL COURT**

**BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.2776/PUN/2017
निर्धारण वर्ष / Assessment Year : 2011-12

Federation of Trade Association of Pune, Vyapar Bhavan, Market Yard, Gultekdi, Pune – 411 037 PAN : AAATF3470D	Vs.	CIT (Exemptions), Pune
Appellant		Respondent

Assessee by	Shri Rajiv Thakkar
Revenue by	Shri T. Vijaya Bhaskar Reddy
Date of hearing	02-09-2021
Date of pronouncement	02-09-2021

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee is directed against the order passed by the ld. CIT(Exemptions), Pune on 29-09-2017 denying the registration u/s.12AA of the Income-tax Act, 1961 (hereinafter also called 'the Act').

2. Briefly stated, the facts of the case are that the assessee moved an application for grant of registration u/s.12A of the Act. The ld. CIT(E) called upon the assessee to explain as to how it was covered within the definition of 'Charitable purpose' as per section 2(15) of the Act when it was charging membership fee. The assessee submitted a Note explaining the purpose and objects of its formation. The ld. CIT(E), after considering the aims and objects of the trust, as

per clause 4 of the trust deed, came to hold that the trust was a Members' association and all the activities were limited to its members and not to general public at large so as to fall within the clause "*advancement of any other object of general public utility*". He, therefore, refused the registration against which the assessee has come up in appeal before the Tribunal.

3. We have heard both the sides through virtual court and scanned the relevant material on record. A copy of the trust deed of the assessee is available at page 5 onwards of the paper book. Aims and objects have been enshrined in Annexure-B, reading as under:

- "1) To encourage get-together and bring about feeling of unity and co-operation among the persons engaged in trade & commerce, in all matters connected with and involving their common good and issues.
- 2) To promote, develop, stimulate, advance & protect the interest of trade & commerce.
- 3) To institute, encourage, finance promote, sponsor and develop all kinds of statistical, scientific, economic & technical research relating to trade & commerce.
- 4) To foster cultural links with the persons engaged in trade, profession and vocation.
- 5) To consider and formulate opinions, proposals and actions on all matters connected with trade and commerce.
- 6) To collect, analyse, classify and circulate the statistical data in furtherance of interest of trade & commerce.

- 7) To create just & equitable principles & customs in trade & commerce.
- 8) To make efforts to spread and diffuse the commercial, economic legal knowledge and useful informations to the traders.
- 9) To publish articles, bulletin, magazine, newspaper connected with trade.
- 10) To carry on publicity and propaganda, to educate the public and mould public opinion in favour of actions & opinions of trade, by advertisements, press notes, meetings seminars & conferences etc.
- 11) To provide a common forum for exchange of views and experiences by the trade and also to organize consultancy wings or panels in the fields connected with trade, finance, taxation, labour etc.
- 12) To guide, promote and strengthen the present and future individual Trade Associations.
- 13) To arrange and to hold seminars/short term courses & refresher courses for the Salesman and other employees to apprise them about up-to-date technical knowledge and information, for further development, promotion of Distribution House of Business. Such courses & seminars be arranged in consultation with similar other institutions and to fix fees/remuneration of courses and lecturers/companies invited for conducting the seminars and courses.
- 14) To promote Library and impart trade knowledge by way of arranging lectures, exhibitions etc.”

4. On going through the above objects of the assessee trust, it is clear that it has been set up to promote, develop and protect the interests of trade and commerce and also to foster the feeling of unity

and co-operation among the persons engaged in trade and commerce of all the matters concerning with their common good. Section 2(15) defines 'charitable purpose', *inter alia*, including "*the advancement of any other object of general public utility*". Proviso to this section provides that the advancement of 'any other general public utility' shall not be charitable purpose if it involves carrying on of any activity in the nature of trade and commerce or business etc. subject to certain conditions. On going through the mandate of section 2(15), insofar as it is relevant for our purpose, it emerges that firstly, the objects of the trust should be of advancement of any other general public utility and secondly, no activity in the nature of trade and commerce or business etc., should be carried on by it.

5. Insofar as the first condition is concerned, it can be seen from the objects of the trust itself that it has been set up to promote and protect the interests of trade and commerce. 'Functions' provided in the Annexure-C to the trust deed also state almost to the same effect by, *inter alia*, providing "*To take all necessary steps for promoting, supporting, opposing or amending the legislations, acts, rules, guidelines, circulars, customs, trade notice, practices followed by central Govt. State Govt., any departments thereof, local authority, public & private sector for protection and furtherance of interests of*

trade and commerce. On going through the above clauses of the trust deed covering its aims and objectives and also functions, there remains no doubt whatsoever that it has been set up to promote and protect the interests of trade and commerce. Under such circumstances, a question arises as to whether such objects can be brought within the purview of “object of general public utility”. The Hon’ble Supreme Court in *CIT Vs. Andhra Chamber of Commerce (1965) 55 ITR 722 (SC)* considered a case in which the assessee therein, a chamber of commerce, had principal objects “to promote and protect trade, commerce and industries” and to stimulate and promote the development of trade, commerce and industries in India or any part thereof. In the light of such objectives, the Hon’ble Supreme Court held that public is vitally interested in the promotion of trade, commerce and industries and hence, the same falls within the scope of “*advancement of any other object of general public utility*”. Thus, it is apparent that the assessee satisfies the first condition of being in advancement of any other object of general public utility.

6. Now comes the second condition as to whether the assessee was carrying on activity in the nature of trade, commerce or business. The ld. CIT(E) has reproduced the Income and expenditure sides of

the assessee's Income and expenditure statements for the financial years from 2012-13 to 2015-16. On the revenue side, there are six heads, namely, LBT Andolan, Shop Act Andolan, Advertisement receipts, Interest, Cricket Tournament and Membership fee. On the expenditure side, there are LBT Hatav Expenses, Shop Act Andolan expenses, Advertisement expense and Cricket tournament. On a specific query, it was submitted that LBT Andolan meant the protest taken by the Association against the levy of Local Body Tax, which was detrimental to the interest of trade and commerce. For launching such a protest, the Association collected certain amounts and showed them under the head LBT Andolan revenue and incurred expenses under the head LBT Hatab expenses. Similar is the position regarding Shop Act Andolan. The assessee-association carried out protests against certain clauses of the Shop Act for which it collected certain sums from its members and then spent it. The same is true for Advertisement receipts and expenses. The assessee organized certain campaign for the promotion of trade and commerce. The amount collected from the members was described as Advertisement receipts and the amount spent on organizing such an event was described as Advertisement cost. The same stands for Cricket Tournament revenue and expenses. Apart from that, there is minor Interest

income and some amount of Membership fee. On going through the bifurcation of the Revenue and the Expenses sides for all the four years that have been take note of by the Id. CIT(E) in the impugned order, it becomes apparent that none of the activity is in the nature of trade, commerce or business. Thus, the assessee satisfies this condition as well.

7. To sum up, the assessee fulfils the requisite conditions for falling under the head 'charitable purpose' as defined u/s. 2(15) of the Act. Apart from that, the Id. CIT(E) has not referred to any other disqualification disentitling the assessee to registration. Overturning the impugned order, we grant the registration.

8. In the result, the appeal is allowed.

Order pronounced in the Open Court on 02nd September, 2021.

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 02nd September, 2021
सतीश

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The CIT(Exemptions)
3. DR, ITAT, 'B' Bench, Pune
4. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,**// True Copy //**

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	02-09-2021	Sr.PS
2.	Draft placed before author	02-09-2021	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

*