

**IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE**

(Convened through Virtual Court)

**BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMEBR
& SHRI MANISH BORAD, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. Nos. 297 & 298/Ind/2020
(निर्धारण वर्ष / Assessment Years : 2014-15 & 2017-18)

CRISP Society Opp. Manas Bhavan, Shyamla Hills, Bhopal - 452002	बनाम/ Vs.	DCIT-Exemption Aayakar Bhawan, Hoshangabad Road, Bhopal
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAATC1353N		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/Appellant by :	Shri Ashish Goyal & Shri N. D. Patwa, Advs.
प्रत्यर्थी की ओर से / Respondent by :	Shri Amit Soni, Sr. D.R.

सुनवाई की तारीख / Date of Hearing	07/10/2021
घोषणा की तारीख /Date of Pronouncement	20 /12/2021

ORDER

PER MAHAVIR PRASAD, JM:

Both appeals have been preferred by the assessee against the respective orders of the Commissioner of Income Tax (Appeals)-2, Bhopal ('CIT(A)' in short) vide Appeal No. CIT(A)-2/BPL/IT-11060/16-17 & CIT(A)-2/BPL/IT-10387/19-20, both dated 17.08.2020 arising out of assessment orders dated 26.12.2016 & 18.12.2019 passed by the Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2014-15 & 2017-18.

2. Since the facts in issues relate to the common grievance, both these appeals were heard together and are disposed of by this common order for the sake of convenience. In those matters, lower authorities have held that assessee's activities are commercial in nature.

ITA No. 297/Ind/2020-A.Y. 2014-15

2. The grounds of appeal raised by assessee read as under:

- “1. *The Id CIT(A) was not justified in confirming the assessment order, which is bad-in-law, void ab initio, barred by limitation, illegal, contrary to the facts and circumstances of the case, liable to be annulled.*
2. *The Id CIT(A) erred and in confirming the disallowance u/s. 11 and taxing entire income of the appellant as business income, contrary to the facts and without considering provisions of section 11 of the Act.*
3. *The Id CIT(A) erred in applying the provisos to section 2(15) and therefore treating Rs. 1,50,21,153 as business income from trade and commerce. (Tax Effect - Rs. 60,29,680)*
4. *The Id CIT(A) erred in not treating the objects and activities of the appellant as educational institution and instead treated the appellant as existing for any other objects.”*

3. The assessee is registered under S.12AA of the Act and assessee has claimed exemption in the return under S.11 of the Act. The assessee is a trust carrying out to develop availability of skilled manpower in the state, running of short term courses in technical field for enhancement of technical competencies of students etc. From the memorandum of association of the assessee that its aims would be as under:

- “a) *Enhancing the technical competencies of the intended target groups i.e. polytechnic students and staff, job seeking diploma holders and other technical personnel.*
- b) *Providing consultancy and information resources to promote and encourage performance of technical personnel.”*

3.1 From the Income and Expenditure account of the assessee that the major receipts/income of the assessee is from the following:

- “a) Consultancy receipts from different govt./semi govt. departments/institutions such as MANIT, NHDC Limited, Bhaskar foundation etc.*
- b) Consultancy receipts from Department of Technical Education for development of MIS Software application*
- c) TCPC Job Work receipts from different organizations*
- d) Registration and Annual subscription fees*
- e) Consultancy receipts from CRISP online services”*

3.2 It is seen from the activities of the assessee and the income and expenditure account itself that most of the receipts are from providing consultancy services to various government, semi-government and private organizations. Apart from the consultancy services, the assessee has also carried out job work for different institutions which is reflected from the income and expenditure account itself. The society has entered into agreements/contracts with institutions such as Rajiv Gandhi Technical University for providing them different services related to admission/registration of students, issuance of their ID Cards etc. The assessee society is charging a fix sum per student/percentage of fees for its services. It is found that the several activities carried out by the assessee society that it is not at all established for imparting education. The activities of the society itself show in no uncertain terms that the same are not in the nature of imparting education. The various activities discussed above such as design and development of website or MIS software application, different other consultancy services, job work and the services charging registration and annual subscription fees can never be termed as education u/s 2(15) of the Act. The learned AO did not agree with the

activities which can fall under section 2(15) of the Act and held that the assessee is also charging handsome registration and subscription fees for providing its services. All these activities of the assessee are undoubtedly in the nature of commercial activities. In the assessee's case, the advancement of any other object of general public utility is not a charitable purpose as per the proviso to Section 2(15) of the Act and held that assessee is not entitled for exemption under S.11 of the Act for the year under consideration as per provision of Section 13(8) of the Act. The AO made an addition of Rs.1,50,21,153/-.

4. Thereafter, the assessee preferred first statutory appeal before the CIT(A) who dismissed the appeal of the assessee.

5. We have gone through the relevant records and impugned order. The learned AR argued that its activities are non-commercial and wrongly denied benefit of Section 11 of the Act. The learned AR relied upon on following cases:

- i. DIT(E) vs. National Safety Council 305 ITR 257 (Bom),
- ii. Saurashtra Education Foundation vs. CIT 273 ITR 139,
- iii. Harnam Singh Harbans Kaur vs. Director of Income Tax (Exemption), Delhi [2012] 17 taxmann.com 103 (Delhi Tribunal),
- iv. CIT(A) vs. Gujarat Maritime Board: 2007 14 SCC 704,
- v. CIT vs. Ahmedabad Rana Caste Assn. (1982) 2 SCC 542,
- vi. CIT vs. Andhra Chamber of Commerce (1965) 55 ITR 722 (SC),
- vii. Radhasoami Satsang vs. CIT 193 ITR 321,
- viii. Gujarat State Co-operative Union 195 ITR 279 (1992)
- ix. Ecumenical Christian Centre 139 ITR 226 (1983).

5.1 In these matters, lower authorities held that assessee's activities are commercial in nature. The trust or education institute is running with a nominal fee to cover cost on account of its activities that cannot be held to be a commercial activity. Sometime trust or the other institution does not get complete donations either from public or from the government. In that case, if those trusts or education institutes charging nominal amount of fee in order to carrying out its activities in a smoother way, this cannot be called a part of commercial activities. Therefore, respectfully following the aforesaid judgments and as assessee is imparting education and training to students and public, its activities have not been doubted by the lower authorities. Therefore, in such circumstances, benefit of Section 11 of the Act cannot be denied.

6. In the result, both appeals filed by the assessee are allowed.

This Order pronounced in Open Court on 20 /12/2021

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER
Ahmedabad: Dated 20 /12/2021

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

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,

Assisstant Registrar,
I.T.A.T., Indore

- 1.Date of dictation on 13.12.2021
- 2.Date on which the typed draft is placed before the Dictating Member 13.12.2021
- 3.Date on which the approved draft comes to the Sr.P.S./P.S.
- 4.Date on which the fair order is placed before the Dictating Member for pronouncement
- 5.Date on which the fair order comes back to the Sr.P.S./P.S
- 6.Date on which the file goes to the Bench Clerk
- 7.Date on which the file goes to the Head Clerk
- 8.The date on which the file goes to the Asstt. Registrar for signature on the order
- 9.Date of Despatch of the Order