

आयकर अपीलिय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
 AND
 SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA No.796/PUN/2017
 निर्धारण वर्ष / Assessment Year : 2009-10**

The Income Tax Officer (Exemptions),
 Ward - 2, Pune

.....अपीलार्थी /
 Appellant

बनाम / V/s.

Mitra Technology Foundation,
 C-2, 905, Ganga Satellite,
 Wanowarie, Pune - 411040

PAN : AADCM2601D

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sharad Shah
 Revenue by : Shri Piyushkumar Singh Yadav

सुनवाई की तारीख / Date of Hearing : 10-03-2022
 घोषणा की तारीख / Date of Pronouncement : 18-05-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal filed by the Revenue against the order dated 19-01-2017 passed by the Commissioner of Income Tax (Appeals)-10, Pune [CIT(A)] for assessment year 2009-10.

2. The only issue is to be decided is as to whether the CIT(A) is justified in allowing exemption u/s. 11 of the Act ignoring the ratio laid down by the Hon'ble Supreme Court in the case of Lok Shikshan Trust Vs. CIT reported in 101 ITR 234 (SC).

3. The brief facts relating to the issue on hand are that the assessee is an AOP duly registered u/s. 12AA of the Act vide order dated 05-12-2002 w.e.f. 18-12-2001. The AO on an examination of objects, held the assessee is to be considered under the fourth limb of sub-section (15) of section 2 i.e. any other object of general public utility. Considering the details of income shown by the assessee for the year under consideration the AO requested the assessee to explain why the exemption claimed by the assessee u/s. 11 of the Act should not be disallowed. It was explained, on the same issue, the ITAT in assessee's own case for A.Y. 2008-09 held in favour of the assessee. The AO observed, the order of ITAT in A.Y. 2008-09 is not applicable for the year under consideration in view of amendment by inserting a proviso-2 to section 2(15) of the Act. The AO held the assessee is not eligible for claiming exemption u/s. 11 of the Act. The CIT(A) by placing reliance on the basis of Hon'ble High Courts of Madras and Gujarat allowed the exemption u/s. 11 of the Act.

4. Heard both the parties and perused the material available on record. The ld. DR relied on the order of AO. The ld. AR submits that the activity of the assessee falls under the category of education. They are training Indian Residents to be good volunteer for NGOs, doing Social Work. He submits that the Indians are trained, how to carry out activities as regards calamity relief such as, what care is to be taken while working at the earthquakes affected sites etc... The activities of training include exchange programs with other such training institutes abroad and offsite training in India and outside India. We note that the object of the assessee is that, to train the people to become skilled volunteer who can work in NGO activities, further, that the various NGOs in India and abroad grant money to the assessee to be utilized for various training program. We find the

activities of the assessee are in the nature of education in terms of the decision of the Hon'ble High Court of Gujarat in the case of Gujarat State Co-operative Union Vs. CIT reported in 195 ITR 279 (Guj.)

5. We note that the Hon'ble High Court of Gujarat in the case of Gujarat State Co-operative Union (supra) held that it is not necessary to nail down the concept of education to a particular formula or to flow it only through a defined channel. Its progress lies in the acceptance of new ideas and development of appropriate means to reach them to the recipient. The relevant portion of which is reproduced here-in-below :

“15. The next aspect is as to whether the assessee company was engaged in educational activities. The tribunal would hold that it is only RBI which is educating the public by establishing the museum and the assessee is only a contractor. This aspect was dealt with in Thanthi Trust and after referring to various decisions of the Hon'ble Supreme Court it was held that the word “education” occurring in Section 2(15) of the Act has to be given a wider meaning and not to restrict it to mean formal school education. In Alembic Chemical Works Company Limited Versus CIT5 it was observed that it would be unrealistic to ignore the rapid advances in research in antibiotic medical microbiology and to attribute a degree of durability and permanence to the technical knowhow at any particular stage of in the fast-changing area of medical science could be unrealistic. Thus, if the term “education” as occurring of Section 215 (15) cannot be restricted to formal school or college education then dissemination of knowledge through a museum or a science park would undoubtedly fall within the meaning of “education” as occurring in Section 2 (15) of the Act. One other aspect which appears to have weighed in the minds of the tribunal is regards the surplus which has been generated by the assessee upon fulfilling the projects. Merely, because a certain amount has been generated as surplus cannot take away the activities of the assessee as not being charitable for the purpose of imparting education or for general public utility. As could be seen from the memorandum of association, the incumbent profit of the assessee has to be utilised for the promotion of the objects which have been set forth in the memorandum. No portion of the income or property shall be paid or transferred directly or indirectly by way of dividend, bonus etc. Therefore, the finding of the tribunal on this aspect is also not tenable. Thus, when the assessee has not been established for the purpose of earning profit and the income it generates has to be applied for promoting the objects as spelt out in the memorandum and no portion of the income can be directly or indirectly paid by way of dividend or bonus etc, it has to be necessarily held that the assessee is a not for profit organisation but public utility company and the activities of the company for which it has been established would undoubtedly show that the company by establishing knowledge parks, engaged in imparting education and also undertakes advancement of other aspects of general public utility to fall within the definition of charitable purpose as defined under Section 2 (15) of the Act. Thus, for all the above reasons we hold that the order passed by the tribunal calls for interference.”

6. The Delhi Tribunal in the case of Haryana State Remote Sensing and Application Centre (HSRSAC) reported in 193 ITD 706 by referring to the decision of Hon'ble Supreme Court in the case of Sole Trustee, Loka Shikshana Trust Vs. CIT reported in 101 ITR 234, in the case of Gujarat State Co-operative Union reported in 195 ITR 279 (Guj.) and by placing reliance on the decision of Hon'ble High Court of Delhi in the case of Chartered Accountant of India reported in 347 ITR 86 (Del.) which held that the institute of Chartered Accountant of India which is neither school nor university could still be held to be providing education in the sense provisions u/s. 2(15) of the Act. In view of the same, examining the activities of the assessee therein the Delhi Tribunal held providing training in the field of remote sensing for preservation of environment through optimization of land used natural resources constitutes providing education. In order to come to such conclusion the Delhi Tribunal placed its reliance in the case of Aditanar Education Institution reported in 224 ITR 310. In the present case, we find that the CIT(A) by placing reliance in his own order for A.Y. 2011-12 held the activities of the assessee as education concerning the provisions u/s. 2(15) of the Act by placing reliance on the decision of Hon'ble High Court of Gujarat in the case of Gujarat State Co-operative Union (supra), which was referred to by the Delhi Tribunal in the case of Haryana State Remote Sensing and Application Centre (HSRSAC) (supra). Therefore, we hold the activities as provided by the assessee for Indian residents as a volunteer for doing social work in natural calamities like earthquakes, exchange programs abroad as education under the provisions u/s. 2(15) of the Act. Thus, we find no infirmity in the order of CIT-(A) and it is justified. Therefore, grounds raised by the Revenue are dismissed.

7. In the result of, appeal of Revenue is dismissed.

Order pronounced in the open court on 18th May, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 18th May, 2022.

रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-10, Pune
4. The CIT (Exemptions), Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune