

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI  
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER AND  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER  
ITA No. 710/Mum/2020 (A.Y. 2014-15)

M/s Federation of Freight Forwarders Associations,  
311/313, Mahinder Chambers,  
W.T. Patil Marg, Opp. Dukes Factory,  
Chembur, Mumbai-400071

**PAN: AAATF0039J**

..... Appellant

Vs.

ITO (Exemption)-1(3),  
Piramal Chambers 4<sup>th</sup> Floor,  
Dr. S.S. Road, Parel, Mumbai-400012.

..... Respondent

Appellant by	:	Sh. Nitesh Joshi
Respondent by	:	Sh. Indira Adakil, CIT-DR
Date of hearing	:	13/04/2022
Date of pronouncement	:	07/07/2022

**ORDER**

**PER GAGAN GOYAL, A.M:**

This appeal by the assessee is directed against the order of Ld. Commissioner of Income Tax (Appeals)-3, Mumbai [hereinafter referred to as 'the CIT (A)'] dated 21.06.2019 for the Assessment Year (AY) 2014-15. The assessee has raised the following ground of appeal:

*"1. In the circumstances and facts of our case, the Ld. Commissioner of Income Tax (Appeals) has erred in upholding taxability of Rs. 14, 82,713/- being gross*

*interest income and Rs. 24,760/- being miscellaneous income without considering the fact that we are registered u/s 12A as a trust and claiming exemption u/s 11 of the Income Tax Act, 1961 and mutuality which is unwarranted and unlawful and therefore the entire income ought not to be taxed."*

2. Brief facts of the case are that the assessee has e-filed its return of income for AY 2014-15 on 30.09.2014 declaring total income of Rs. 8,65,062/-. Assessee's case was selected for scrutiny and requisite information were called for through notice under section 142(1) and 143(2) of the Act.

3. Assessee is registered as a charitable organization with Director of Income Tax (Exemption), Mumbai under section 12A and also registered with the Charity Commissioner, Mumbai. The main object of the memorandum of association is to co-ordinate the activities of the different custom house agents associations and the members of the association to take part in conferences, exhibition, etc.

4. Assessing Officer treated assessee's institution as a mutual concern and held as under:

*"The submission of the assessee is considered but the same cannot be accepted in the light of the CBDT's circular as under:*

*The CBDT vide Circular no. 11/2008 dated 19/12/2008 had come out with a clarification for the above proviso which is as under:*

*"There are industry and trade associations who claim exemption from tax u/s 11 on the ground that their objects are for charitable purpose as these are covered under any other object of general public utility'. Under the principle of mutuality, if trading takes place between persons who are associated together and contribute to common fund for the financing of some venture or object and in respect have no dealings relations with outside body, then any surplus the persons forming such association is not chargeable tax. In such cases, there must be complete identity between the contributors the participants.*

*Therefore, where industry or trade associations claim both to be charitable institutions as well as mutual organizations and their activities are restricted to contributions from and participation of only their members, these would fall under the purview of the proviso to section 2(15) owing to the principle of mutuality, organizations have dealings with non-members, their claim to be charitable organizations would now be governed by the additional conditions stipulated in the proviso to section 2 (15)."*

5. AO further held as under:

*"4.3 Further, the assessee in its submission gives reference to provision of investment of interest within the meaning of section 11(5) of the IT Act. However, the assessee failed to pay heed to the CBDT's Circular (supra) as well as the facts mentioned hereunder:*

*4.3.1 As far as the interest income is concerned, doctrine of mutuality should not be applied in the case of the assessee as the assessee's activity is based on mutual cooperation. The assessee reiterated its submission made on 18-03-2014 in which it has told that mutuality concept is not applicable in its case as it is a Non-profit Organization and has also been granted registration u/s 12AA of the I.T Act. Moreover, the above submission of the assessee is not accepted because of the following reasons:*

*i. The assessee's main objects in its memorandum of association has been reproduced at Para 4 (supra). However, none of points mentioned in its objects is for the person who is non member or general public at large. Thus, the benefit of the Trust is not utilized by all the persons of the society. It is benefited to limited person i.e. Members of the assessee Trust only.*

*ii. The cardinal requirement is that all the contributors to the common fund must be entitled to participate in the surplus and all the participators in the surplus must be contributors to the common fund; in other words, there must be complete identity between contributors and the participators. If this requirement is satisfied, the particular form which the association takes is immaterial. In other words if all the participators to the common fund are also contributors and their identity is established then the test of mutuality is satisfied. The contributors to the common fund and the participators in the surplus must be an identical body. That does not mean that each member should contribute to the common fund or that each member should participate in the surplus or get back from the surplus precisely what he has paid. What is*

*required is that the members as a class should contribute to the common fund and participators as a class must be able to participate in the surplus. It is immaterial whether the surplus is paid back to the members in cash or put to reserve with the Trust for its development and for providing benefits to its members. CIT v/s Natraj Finance Corporation 169 ITR 732, 735 Andhra Pradesh.*

*iii. The application of the principle of Mutuality is not destroyed by the presence of transactions with, or profits derived from non-members. The said principle could apply to transactions with members. The two activities in appropriate cases be separated and the profits if any from the members can be taken for exemption on the basis of actual from the accounts or at any rate by estimate if it should become necessary (CIT v/s Madras Race Club 105 ITR 433 Madras) and the profits derived from non-members can be brought to tax (Sports Club of Madras Ltd. v/s CIT 171 ITR 504).*

*iv. CIT v/s Ranchi Club Ltd 196 ITR 137 (Patna Full Bench), Spl Leave petition granted by the Supreme Court 194 ITR (ST) 236 (SC). The surplus receipts of members over its expenses have been sought to be exempted from Income tax on the principle of Mutuality. This principle is based on the premise that no man can make profit out of himself, but this principle cannot have any application in respect of the surplus received from non-members. It is not difficult to conceive of cases where one and the same concern may indulge in activities which are partly mutual and partly non-mutual. True, keeping in view the principle of mutuality, the surplus accruing to members from the subscription charges received from its members cannot be said to be income within the meaning of the Act but if such receipts are from sources other than members then no exemption can be claimed in respect of such receipts on the plea of mutuality.*

*v. The careful examination of the assessee's actual activities as well as the perusal of the main objects show that the dominant or rather the predominant object of the assessee is to provide benefit to its members only.*

*vi. It is pertinent to make mention here the famous case of Cricket Club of India, Bombay. The CCI has been conducting world class matches, test matches and Ranji Trophy Matches and other similar tournaments, from generations. The CCI is registered u/s 25 of Companies Act and was earlier assessed to tax in this Range only and it was also claiming Exemption u/s. 11 & 12 of the Income Tax Act, 1961. In this case, it has been held by the Hon'ble*

*Supreme Court that it is mutual organization (refer the case of Bankipur Club Ltd. 226 ITR 97 wherein the CCI Club was also a party).*

*The object to promote, manage, or assist in the promotion or management for the development of trade and commerce for its members clearly show that the dominant object of the assessee is to provide amenities and facilities to the members of the assessee Trust only. It is, therefore, held that the assessee is a mutual organization.*

*vii. The assessee is predominantly a mutual association. The charitable objects and the object of mutual benefits are contradictory to each other. It must be appreciated that Exemption u/s. 11 of the IT Act as a charitable trust and principles of mutuality are mutually exclusive of each other. In the mutual association the members subscribe for the primary purpose of benefiting themselves, while in a charitable institution people subscribe for charitable object without any expectation in return. In the case of the assessee, the members have contributed only for the purpose of their own benefit and for acquiring certain benefits. Therefore, the assessee is treated as mutual association and not as charitable institution.”*

6. Ld. CIT (A) came to a conclusion confirming AO’s order as under:

*“5. **Decision:** I have considered the facts of the case, AO's contentions, submissions of the appellant as well as the case laws relied upon by the appellant. The appellant contended that it is registered u/s 12A of the Act and the activities of the appellant are for charitable purposes as the same falls under the clause 'advancement of any other objects of general public utility covered in section 2(15) of the Act. In this regard, it is mentioned that as per provisions of section 13(8) where the case is covered by proviso to section 2(15), the provisions of section 11 or section 12 shall not operate.*

*The provisions of section 2(15) of the I.T. Act, applicable w.e.f. 01.04.2009 which reads as under:*

*“(15) "Charitable purpose" includes relief of the poor, education, medical relief, [preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest.] And the advancement of any other objects of general public utility:*

*Provided that the 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, irrespective of the nature of use or application, or retention, of the income from such activity:]*

*[Provided further that the first proviso shall not apply if the aggregate value of the receipts from the activities referred to therein is **[twenty five lakh rupees]** or less in the previous year:]"*

*As mentioned by AO in his order the proviso to section 2(15) has been found applicable and hence this contention of the appellant is not acceptable. Further, the applicability of section 11 read with other provisions in this behalf is liable to be examined and tested in relation to the state of affairs of the assessee from year to year for the purpose of ascertaining the claim of exemption under these provisions. The grant of Registration and its existence in particular year by itself is not sufficient for availing exemption u/s 11 of the IT Act unless the conditions and its stipulations u/s 11 read with applicable provisions in this behalf are fulfilled. Registration u/s 12A would not ipso facto entitle the assessee to claim exemption u/s 11 as was held in the case of Surat Tennis Club vs. CIT (2000) 75 ITD (Ahd.). Therefore, the claim of exemption of appellant is further required to be examined u/s 11 of the IT. Act and separately a subject matter therein for exemption u/s 11 so claimed. The nature of income required to be derived from trust property held for charitable purpose' and its 'application for such purpose' (charitable purpose) during the year is a legal requirement u/s 11, which is to be fulfilled in addition to Registrations u/s 12A of the I.T. Act. 1961. The Registration u/s 12A is only a condition precedent for applicability of Sec. 11. The condition of deriving income from property held for 'charitable purpose' and 'application of such income for charitable purpose in terms of Sec. 11 is a separate condition and legal obligation for availing exemption u/s 11. The operations/activities of the assessee and claim of exemption u/s 11, therefore, is to be examined and tested for 'charitable purpose from year to year in assessment proceedings as each assessment year is a separate unit as held in Sir Kikabhai Premchand Vs. CIT 24 ITR (SC). Accordingly, the claim of exemption u/s 11 made by the appellant is to be examined from year to year. In a case like as in hand, the change in the definition of charitable purpose "by operation of law" or "by change in activities of the assessee in breach of charitable purpose, both will result in violation of conditions of charitable purpose u/s 11. In the present case, violation of conditions of*

*charitable purpose is "by operations of law, viz amendment in Sec.2 (15), which defines "charitable purpose for the Income Tax purposes, together with the fact that the appellant has not moved away from the activities purposes which may have been charitable earlier, but now are rendered violative of charitable purpose and outside the definition of charitable purpose applicable for the year, by operation of law. For claiming exemption u/s 11, there is no escape from the obligations and fulfilment of conditions laid down in the specific sections/provisions for this purpose under the Income Tax Act, irrespective of Registration u/s 12A. Contention of the appellant is therefore not acceptable.*

*The appellant is in receipt of income from conference / membership fee from seminar which by no stretch of imagination can be termed as non-commercial Further, proviso to section 2(15) is attracted even in a case where the assessee is not carrying out business, trade, commerce by itself. The charging of fees and consideration 'in relation to services for any trade, business and commerce or involvement in trade, commerce and business is sufficient to attract the proviso to section 2(15). The decision in the case of Subhram Trust vs. DIT (E) (2009) 317 ITR (AT) (Bang.) that 'the term in relation to should be broadly interpreted i.e. to say if any activity which directly or indirectly facilitates the rendering of any service in relation to any trade, commerce or business, is carried on by trust, then it will be covered under proviso to section 2(15) is relevant in deciding that the carrying out of trade, commerce, business by the assessee itself is not necessary for applicability of proviso to section 2(15). Therefore, the arguments of the appellant that it is not engaged in carrying out business, commerce, trade per se is not relevant to the issue in hand and such arguments are against the legal provision of section 2(15) and its applicability under the facts and circumstances as in the case of the appellant. The legal question involved in applicability of section 2(15) of the I.T. Act, 1961 is not the carrying out of business, trade or commerce per se, rather charging of fees in relation to trade, commerce, business and / or involvement in business trade, commerce is sufficient for attracting proviso to section 2(15) Accordingly, the contentions of the appellant are not acceptable, therefore, find no reason to intervene in the finding of the AO for AY 2014-15, Accordingly, grounds of appeal nos.1 to 2 are dismissed."*

7. We have gone through the orders of AO and Ld. CIT(A). We have carefully considered the submissions made by assessee's organization before AO and First Appellate Authority (FAA).

8. Assessee is duly registered under section 12A vide Registration No. BMY/INS/7/73-74. Vide its submissions on page no.8 of Ld. CIT (A's) order, assessee submitted before the Ld. CIT (A) as under:

*“(a) The Assessee is an apex regulatory body for freight forwarders with an object to mote and assist as members who practice in the field of freight forwarding The Assessee co-ordinates the activities of the Customs House Agents Associations and the members, collects and disseminates information to members on subjects of common interest takes part in conferences, helps members and acquaints the authorities with their common problems, protects and to improve the common benefits strives to get redressal of legitimate grievances by all peaceful and constitutional means and procedures, exercises beneficial supervision over the clearing trade with a view to maintain a high standard of integrity and public confidence.*

*(b) The Assessing Officer has erred in treating the activities undertaken by the Assessee as for mutual benefit and ignored the fact that the Association is registered u/s 12A and claims exemption u/s 11 of the Income Tax Act, 1961. The Assessee states that since it holds registration u/s 12A, & cannot be denied exemption u/s 11. The Assessee files its income tax returns as a charitable trust and in view of it holding a valid 12A certificate; it cannot be denied exemption u/s 11.*

*The association had been granted certificate u/s 12A by the Commissioner of Income Tax subsequent to submission of Trust deed and details of charitable objects to be performed by it. The memorandum of the Association has not been altered since inception and therefore there has not been any change in the scope of objects of the Assessee, which fact has not been controverted by the Assessing Officer. The Association has been accordingly filing its returns as a charitable organization and claiming exemption u/s 11. The Assessee states that it has always filed its return as a charitable organization and its returns have always been accepted. The Assessee states that since no question pertaining to its validity as a trust and subsequent claim of exemption u/s 11 were made in prior years, due to it holding valid certificate of registration u/s 12A, exemption u/s 11 cannot be denied to it by the Assessing Officer.*

*(c) Without prejudice to the aforesaid, the Assessee states that its activities fall within the ambit of "charitable purpose" as defined u/s 2(15) of the Income Tax Act. The Assessee states that the Assessing Officer has erred in considering the Association as mutual association and not a charitable association. The Assessing Officer has erred in limiting the scope of charity by stating that "the essence of charity is that the person(s) doing charity exclude themselves from the benefits of charity." The Assessing Officer has erred in considering that "a mutual association*

*would be non charitable on the further ground that the benefit of the subscribing members is not public benefit, whereas the definition in sec. 2(15) requires charity to be a public character." The Assessing Officer has erred in quoting an opinion for the definition of "charity" without considering the wide scope that it avails in judicial pronouncements The Assessee states that the activities carried out by it are covered under the meaning of general public utility. The Assessee relies on the following decisions to support its aforesaid contention:"*

9. From the facts mentioned (supra) it is evident that assessee is a Trust registered under section 12A and its memorandum of association has not been altered since inception. The status of the assessee under section 12A was never in challenge. Assessee also through its return claimed benefit of section 12A. It is substantially on record that assessee always claimed and availed benefit under section 12A.

10. Benefit of section 12A and doctrine of mutual concern are mutually contrast to each other. Any assessee cannot have both the status i.e. covered under section 12A and entity as a mutual concern. It's a choice of assessee first to exercise the option whether it opts for section 12A or doctrine of mutual concern. Once, the option chosen by assessee violates any of the conditions of section 12A then only AO or assessee can explore the second option, here in this case assessee opted for the benefit of section 12A and without pointing out any deficiency in the options opted, AO forcefully drag the status of assessee as a mutual concern.

11. Now we need to examine the activities of the assessee with reference to section 12A. In the light of decisions rendered by various Hon'ble High Courts and Apex Court, it is well established potion of law that associations found by various industry people and business houses to promote business industry are eligible for

the benefit of section 12A. Few of the cases which confirms assessee version to substantiate claim under section 12A are discussed here as under:

**“[1965] 55 ITR 722 (SC)[01-10-1964] SUPREME COURT OF INDIA, Commissioner of Income-tax v. Andhra Chamber of Commerce.**

“Section 11 of the Income-tax Act, 1961 [Corresponding to Section 4(3) (i) of the Indian Income-tax Act, 1922] - Charitable or Religious trust - Exemption of income from Property held under - Assessment years 1948-49 to 1954-55 - Assessee-company was incorporated to promote and Protect trade, commerce, and industries and to aid, Stimulate and promote development of trade, commerce and industries in India or any part thereof – Assessee Erected a building and gave it on rent - Whether objects of Assessee could be said to be for charitable purpose and its Income was exempted under section 4(3)(i) - Held, yes

**[2013] 35 taxmann.com 140 (Delhi), HIGH COURT OF DELHI  
Institute of Chartered Accountants of India v. Director General of Income-tax (Exemptions), Delhi**

“Section 2(15), read with 10(23C), 11 and 13 of the Income tax Act, 1961 - Charitable/religious purpose - Charitable/religious institution [Registration] – Assessment Years 2006-07 to 2011-12 - Whether, purport of first Proviso to section 2(15) is not to exclude entities which are essentially for charitable purpose but are conducting some activities for a consideration or fee, but to exclude organizations which are carrying on regular business from scope of charitable purpose - Held, yes - Whether, therefore, where dominant objective of assessee-institute was to regulate profession of Chartered Accountancy in India, and conducting extensive educational program, conducting coaching classes and campus placements, for fees, could not be held as business, but only as in aid of its objects - Held, yes - Whether, where functions performed by assessee institute were in genre of public welfare and not for any private gain or profit, it could not be said that assessee was involved in carrying on any business, trade or commerce and therefore, registration under section 10(23C) could not be denied - Held, yes [Para 77] [In favour of assessee]”

**[2016] 71 taxmann.com 138 (Delhi - Trib.), IN THE ITAT DELHI BENCH 'G'  
Society of Indian Automobile Manufacturers v. Income-tax Officer, (Exemption), Trust Ward-II, Delhi**

“Section 2(15), read with section 11, of the Income-tax Act, 1961 - Charitable purpose (Object of general public utility) - Assessment year 2009-10 - Whether for invoking proviso to section 2(15), one has to understand object of carrying on activity which resulted into income; if object is simply to earn income de hors promotion of objects for which it was set up, it will fall within ambit of proviso to

section 2(15) and if object of activity is to promote objects for which it was set up, then it will not be caught within sweep of proviso notwithstanding fact that there results some income from carrying out such activity - Held, yes -

Assessee-society was set up with object of promoting growth of automobile industry in India and also to improve and protect environment - It was registered under section 12A - For relevant assessment year there was income from seminars and conferences, providing statistical information and Auto Expo - Assessing Officer denied benefit of section 11/12 to assessee on ground that in view of amended provisions of section 2(15) receipts from seminars, statistical information and Auto Expo 2008 were not charitable activities - Whether activities of assessee in organizing seminars, conferences and Auto Expo and publications in relation to automobile industry were performed with prior object of promotion of growth of automobile industry in India, which is an object of general public utility, and, therefore, proviso to section 2(15) would not apply - Held, yes [Paras 8 and 11] [In favour of assessee]"

**[2018] 99 taxmann.com 387 (Delhi), HIGH COURT OF DELHI  
Commissioner of Income-tax (Exemptions) v. Fertilizers Association of India**

"The assessee-association was a non-profit and non-trading company representing the interests of fertilizer manufacturers, distributors, importers, equipment manufacturers, research institutes and suppliers of inputs, registered under section 25 of the Companies Act, 1956. For relevant assessment years, the Assessing Officer held that by virtue of amendment of 1999 the assessee was not entitled to exemption under section 2(15) as it was receiving money on account of registration charges, etc., for seminars/workshops held to inform its members. Held that mere charging of fee from members or non-members for rendering services like training, conducting seminars would not ipso facto lead to denial of exemption when the dominant object of the assessee remained charitable and the aforesaid activities were only incidental to the main activity of the assessee."

**[2018] 100 taxmann.com 7 (Mumbai - Trib.), IN THE ITAT MUMBAI BENCH 'A'  
All India rubber Industries Association v. Additional Director of Income-tax (E),  
Mumbai**

"Section 2(15), read with section 11, of the Income-tax Act, 1961 - Charitable purpose (Object of general public utility) - Assessment years 2011-12 to 2013-14 - Assessee company, registered under section 12AA, was formed with an object for promoting and safeguarding rubber industry - Assessing Officer noted that objects of assessee were not for benefit of general public at large, but were limited only to members of assessee-association, therefore, assessee was only a mutual association and not charitable - Further, assessee's receipts from non-members and other sources such as income received from advertisements, sale of books and periodicals, magazine subscription, interest income on fixed deposits and cumulative deposits, etc. Was hit by amended proviso to section 2(15) - It was

noted that Memorandum of Association of assessee prescribed that income and property of association whensoever's derived would be applied solely towards promotion of objects of association and that no portion thereof would be paid directly or indirectly to members of association - Further, upon winding up or dissolution of association, surplus remaining after satisfaction of all debts and liabilities, if any, would not be paid or distributed amongst members of association but would be given to some other association or institution having similar objects - Whether there was no justification for Assessing Officer to hold that since objects of assessee sought to promote and protect interests of a particular trade and industry, same lost character of being charitable - Held, yes - Whether fact that some of activities carried out by an entity involving charging of fee, etc. had resulted in a surplus could not ipso facto be determinative of fact that there was an element of profit motive - Held, yes - Whether, therefore, proviso to section 2(15) could not be invoked in assessee's case - Held, yes [Paras 11 to 13, 16, 18] [In favour of assessee]"

**[2021] 133 taxmann.com 515 (Amritsar - Trib.), IN THE ITAT AMRITSAR BENCH Association of Physician of India v. Commissioner of Income-tax (Exemption)**

"Section 12A of the Income-tax Act, 1961-Charitable or religious trust - Registration of - Assessment year 2016-17- Assessee was an association of physician doctors and was registered as society - Main objects of assessee was to provide medical education to its members and holding free medical camps in various medical schools in city for students and doctors of those schools - Thus, assessee was pursuing objects, namely, medical education and medical relief to medical students and doctors - Assessee filed an application seeking registration under section 12A - Commissioner (Exemption) rejected same observing that activities of society was guided by principles of mutuality and did not bestow upon society characters inherent in "charitable purpose" - Whether at time of granting registration Commissioner (Exemption) was only required to see that objects of society were charitable and activities of society were genuine and nothing more - Held, yes - Whether since it was admitted fact that objects of assessee were charitable and it was a genuine trust, it was to be granted registration under section 12A - Held, yes [Paras 5, 7 and 9] [In favour of assessee]"

**[2022] 137 taxmann.com 117 (Raipur - Trib.), IN THE ITAT RAIPUR BENCH Confederation of Pharma Dealers Association v. Commissioner of Income-tax (Exemption)**

Section 2(15), read with sections 12A and 12AA, of the Income-tax Act, 1961 - Charitable purpose (Object of general public utility) - Assessee-society was engaged in promotion of trade and commerce related to pharma business and protecting rights and interest of its members engaged in pharma business - It claimed to be engaged in charitable activities and filed application seeking registration under section 12AA - Commissioner (Exemption) rejected application

on grounds that assessee was a mutual concern operating on principles of mutuality and as such, benefit was not meant for public at large; and that assessee-society had developed market place after purchasing land in its name out of contributions made by members and land so purchased had been leased out to its members - Whether it is not necessary that object of general public utility should be beneficial to whole mankind; object beneficial to a section of public is also an object of general public utility - Held, yes - Whether on facts, case of assessee got covered in fourth limb of section 2(15), i.e., 'advancement of any other object of general public utility' and, therefore, assessee would be entitled to benefit meant for charitable trust as contemplated in scheme of Act - Held, yes - Whether merely leasing of developed plots to its members on basis of their respective contributions did not make assessee ineligible for registration as charitable entity - Held, yes - Whether while assessee was a mutual concern and was operating on principles of mutuality, that, by itself, would not place any embargo for registration under section 12AA and to avail associated benefits under section 11 and section 2(15) having regard to CBDT Circular No. 11/2008 dated 19-12- 2008 - Held, yes [Paras 8, 9 and 10] [In favour of assessee]"

12. In view of the above discussion and authorities of various High Courts and Co-ordinate Benches of ITAT mentioned (supra), appellant is declared to be a charitable institution for the purposes of section 12A.

13. In the result, ground no.1 of the assessee is allowed and additions amounting to Rs. 15,07,743/- made by AO is directed to be deleted.

14. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 7<sup>th</sup> day of July, 2022.

Sd/-  
(PAVAN KUMAR GADALE)  
JUDICIAL MEMBER

Sd/-  
(GAGAN GOYAL)  
ACCOUNTANT MEMBER

Mumbai, दिनांक / Dated: 07/07/2022

SK, Sr.PS

**Copy of the Order forwarded to:**

1. अपीलार्थी / The Appellant ,
2. प्रतिवादी / The Respondent.
3. आयकर आयुक्त (अ) / The CIT(A)-

4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

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BY ORDER,

(Dy. /Asstt. Registrar)  
**ITAT, Mumbai**