

**आयकर अपीलिय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ' B ' Bench, Hyderabad**

**Before Shri R.K. Panda, Accountant Member**  
**AND**  
**Shri Laliet Kumar, Judicial Member**

ITA Nos.2353/Hyd/2018 & 972/Hyd/2019		
Assessment Years: 2015-16 & 2016-17		
Asstt. Commissioner of Income Tax (Exemption) Hyderabad	Vs.	The Hyderabad Cricket Association, Hyderabad PAN:AAATT6229Q
(Appellant)		(Respondent)
Revenue by:	Shri Y.V.S.T.Sai CIT (DR)	
Assessee by:	Shri C. Suresh, C.A	
Date of hearing:	16/08/2022	
Date of pronouncement:	29/08/2022	

**ORDER**

**Per R.K. Panda, A.M**

ITA No.2353/Hyd/2018 filed by the Revenue is directed against the order dated 26.09.2018 of the learned CIT (A)-9, Hyderabad relating to A.Y.2015-16. ITA No.972/Hyd/2019 filed by the Revenue is directed against the order dated 8.3.2019 of the learned CIT (A)-9, Hyderabad relating to A.Y.2016-17. For the sake of convenience, both these appeals were heard together and are being disposed in this common order.

**ITA 2353/Hyd/2018**

2. Facts of the case in brief are that the assessee is a Cricket Association, affiliated to the Board of Control for Cricket in India (BCCI) with the primary object of promoting, organizing,

management and conduct of the game of cricket within its Jurisdiction in 10 districts of the State of Telangana. It was granted registration u/s 12AA vide order of the DIT(E) in F.No.1/28/12A/12-13/DIT(E),dated16.01.2003 w.e.f. 01.04.2002. The assessee e-filed its return of income for the Asst. Year 2015-16 on 30.09.2015 declaring 'Nil' income. The return was processed u/s 143(1) of the I.T. Act determining tax payable at Rs. Nil. Subsequently, the case was selected for scrutiny as per 'Manual' scrutiny guidelines and Notice u/s 143 (2) was issued on 26.09.2016.

3. The Assessing Officer during the course of assessment proceedings noted that a survey u/s 133A of the I. T. Act was carried out on 21.10.2011 during which some incriminating documents were found and were impounded. He noted that the assessee received substantial amounts from big corporate houses, namely, M/s GMR and Visaka Industries as sponsorship money on the condition of naming the cricket ground/portion of the stadium in their names. As per agreement dated 16.10.2004 between the assessee and Visaka Industries Ltd, the Company agreed to pay Rs. 6.5 crores to the assessee for naming the stadium as "Visaka International Cricket Stadium" and granting advertisement, publicity and display rights and certain privileges/amenities. Likewise, the assessee entered into an agreement with another company M/s GMR Hyderabad International Airport Limited on 27.09.2007 by which the company agreed to pay Rs.3.5 crores for advertising rights and allotment of corporate boxes amongst other amenities. The assessee has entered into another agreement with M/s Bharathi Cement Corporation Ltd on 14.02.2011 by which the company agreed to pay Rs.2.5 crores for having the Western stand named

after it, with advertising rights and allotment of corporate boxes amongst other amenities. These agreements are valid for a period of 15 years or 10 international matches whichever is later with the effective date reckoned from the first international match played at the stadium after entering into the licensing agreements.

4. The Assessing Officer noted that considering the facts emerging from the documents impounded and post investigation in this matter, the DIT(E), Hyderabad passed an order on 31.05.2012 withdrawing the registration granted u/s 12A of the I.T. Act in the Case of the assessee with effect from 01.04.2004. The assessee filed an appeal before the Tribunal who vide order dated 26.3.2014 vide ITA No.1228/Hyd/2012 set aside the order of the DIT(E) Hyderabad and remanded the issue back to his file for deciding the issue afresh and after giving reasonable opportunity of being heard to the assessee. The CIT (Exemptions) Hyderabad vide order dated 13.3.2015 has withdrawn the registration granted to the assessee u/s 12AA w.e.f. 1.4.2004. Subsequently, the Tribunal vide order in ITA No.649/Hyd/2015 dated 13.10.2016 directed the DIT (E) to restore the registration granted u/s 12A of the I.T. Act. However, the revenue has not accepted the same and filed an appeal before the Hon'ble High Court which is still pending for adjudication. In this background, the Assessing Officer examined the aims and objectives of the association and noted that it does not contain such means of revenue generation which are being resorted to by the assessee. He noted that the means of revenue generation adopted by the assessee are purely commercial activity which are not authorized by the rules of the Association. The Memorandum of Rules and

Regulations, 2012, do not contain any clause allowing the association to conduct such commercial activities.

5. The Assessing Officer on perusal of the income and expenditure account of the assessee noted that the assessee is receiving huge amounts of grant/reimbursement from BCCI as share of advertisement income for the IPL, domestic, international, etc., cricket matches. This according to him is nothing but some sort of sharing of the advertisement income on account of holding of international test matches and ODI matches from which the BCCI has gathered huge advertisement income. Thus, according to him the nature of receipt, even though called subsidy by the assessee was necessarily in the nature of income received by the activity of the assessee.

6. The Assessing Officer further noted that the assessee has shown the following income in the income and expenditure a/c:

Particulars	Amount (Rs.)
Subsidy from BCCI	26,00,00,000
Celebrity Cricket League	20,00,000
Champion League T20	2,98,38,052
I.P.L.	1,32,49,000
Domestic Matches	2,01,50,701
India vs. Sri Lanka – ODI Match	2,01,50,701
Membership Subscription	1,87,621
Interest and other income	34,24,725

7. The Assessing Officer noted that the assessee is a full-fledged member of the BCCI as per Memorandum and Rules & Regulations of BCCI and also as per Memorandum of Association of the assessee. Further, the sponsorship received in respect of corporate boxes cannot constitute charity. The Assessing Officer

held that the sum of Rs.20.00 lakhs received by the assessee in respect of conduct of matches of the celebrity cricket league are in the nature of trade or commerce or business and hit by the proviso to section 2(15) of the I.T. Act, 1961. He held that the IPL matches conducted by the assessee are purely on commercial basis. In view of the above the Assessing Officer held that the assessee is not entitled to the benefit of exemption u/s 11 of the I.T. Act and treated the net surplus amount of Rs.5,29,94,565/- as taxable income.

8. So far as the order of the Tribunal holding that all the receipts are intrinsic and integral to the objects of the association which is the promotion and development of the game of Cricket and hence the proviso is not attracted and hence the question of denial of exemption cannot arise is concerned, the Assessing Officer held that since the matter has not reached any finality and the matter is pending before the Hon'ble High Court, therefore, the argument of the learned Counsel for the assessee that provisions of section 2(15) cannot be attracted cannot be accepted. The Assessing Officer referring to the proviso inserted to section 2(15) by the Finance Act, 2008 w.e.f. 1.4.2009, the CBDT Circular No.11/08 dated 19.12.2008 and the secrecy clause in the Memorandum of Association of the assessee held that the assessee is not eligible for exemption u/s 11 of the I.T. Act of the income earned during the previous year relevant to the A.Y 2015-16. He accordingly treated the net surplus amount of Rs.5,29,94,565/- as taxable income.

9. The Assessing Officer further noted that the assessee has made cash payments exceeding Rs.20,000/- on various occasions. From the various details furnished by the assessee, he

noted that the assessee has violated the provisions of section 40A(3) of the I.T. Act in respect of amounts paid to the tune of Rs.1,28,55,646/-. He, therefore, made the addition of the same in absence of any satisfactory explanation given by the assessee. Accordingly, the Assessing Officer determined the total income of the assessee at Rs.6,48,01,807/- by rejecting the assessee's claim of exemption u/s 11 of the Act and applied the rate applicable to AOP as income of the assessee earned from business during the previous year.

10. Before the learned CIT (A), the assessee made elaborate arguments based on which the learned CIT (A) allowed the claim of exemption u/s 11 by observing as under:

*“5. The Hon'ble ITAT in appellants own case has decided the issue of grant of registration u/s 12AA, by setting aside the order of DIT (E) withdrawing the exemption and the CIT (E) has passed the consequential order dated 14.12.2016 granting exemption w.e.f. 16.01.2003. Therefore, the Assessing Officer is directed to grant exemption u/s 11 of the I.T. Act, 1961. The second issue of addition u/s 40A(3) does not arise once the income has to be computed u/s 11 to 13 of the I.T. Act, 1961. Therefore, Assessing Officer is further directed to delete the addition of Rs.1,28,55,646/- made u/s 40A(3) of the I.T Act, 1961”.*

11. Aggrieved with such order of the learned CIT (A), the revenue is in appeal before the Tribunal by raising the following grounds of appeal:

*“ 1. The Ld. CIT(A) erred in allowing the appeal of the assessee.*

*2. The Ld.CIT(A) erred in directing the Assessing Officer to allow exemption u/s 11 to the assessee, without considering that the nature of activities carried out by the assessee is trade, commerce or business for a cess or fee or any other consideration ass brought out by the Assessing Officer in the Assessment order which is in violation to the 1st Proviso to Section 2(15) of the Income Tax Act, 1961.*

*3. The Ld.CIT(A) erred in directing the Assessing Officer to allow exemption u/s 11 to the assessee without considering that the receipts of the assessee from the activities exceeds twenty-five lakh rupees which clearly attracts the first proviso of Section 2(15) which are violated by the assessee.*

*4. The Ld.CT(A) erred in not adjudicating all the issues raised by the Assessing Officer in the Assessment Order before directing the AO to allow the exemption u/s 11 to the assessee.*

*5. The appellant craves leave to add, delete, substitute, and amend any ground of appeal before and/or at the time of hearing”*

12. The learned DR referring to the order of the learned CIT (A) submitted that the learned CIT (A) without considering the various observations of the Assessing Officer while denying the claim of exemption u/s 11 has allowed the appeal filed by the assessee in a cryptic order. The learned CIT (A) has not at all addressed or discussed the various issues raised by the Assessing Officer. He submitted that merely because the Tribunal has restored the registration u/s 12AA of the Act does not mean that the assessee can indulge in all types of activities and can get away with it. Referring to the order of the Tribunal vide ITA No.649/Hyd/2015 order dated 13.10.2016, the learned DR drew the attention of the Bench to para 34 and 35 of the order according to which the question of considering whether section 11 of the Act would at all apply to exempt this income from liability are matters of assessment and has nothing to do with the genuineness of the activity or the activities not in conformity with the objects of the Trust. He accordingly submitted that the learned CIT (A) without discussing the allowability or otherwise of the exemption claimed u/s 11 of the Act directed the Assessing Officer to grant exemption u/s 11 merely on the basis of Registration u/s 12AA of the Act which is not justified. Similarly, the violation of provision of section 40A(3) has also not been considered properly.

13. Referring to the decision of the Chandigarh Bench of the Tribunal in the case of Punjab Cricket Association vs. ACIT

vide ITA No.4287/CH/2017 order dated 12.9.2019, the learned DR submitted that under identical circumstances, the Tribunal held that the assessee is not entitled to exemption u/s 11 of the I.T. Act.

14. The learned Counsel for the assessee, on the other hand, submitted that the Tribunal in assessee's own case has already allowed exemption u/s 11 of the I.T. Act. The Assessing Officer for the A.Y 2010-11 has allowed the claim of exemption u/s 11 of the I.T. Act in the consequential order passed after of the order of the CIT (A). So far as the A.Ys 2012-13 to 2014-15 are concerned, these are pending with the Assessing Officer after the matter was set aside to the file of the Assessing Officer. Relying on various decisions, he submitted that under identical circumstances, the Coordinate Benches of the Tribunal have allowed the claim of exemption u/s 11 of the I.T. Act to the respective cricket association. He accordingly submitted that since the aims and objectives of the association are for the promotion of organizing, management and conducting of the game of cricket and the assessee has fulfilled its objectives, the benefit of exemption u/s 11 as allowed by the CIT (A) should be upheld and the grounds raised by the revenue should be dismissed.

15. So far as addition under section 40A(3) is concerned, he submitted that since the income is exempt, whatever addition made will automatically get exempted. He accordingly submitted the grounds raised by the revenue should be dismissed.

16. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) and the paper book filed on behalf of the assessee. We have also

considered the various decisions cited before us by both sides. We find the AO in the instant case rejected the claim of exemption u/s 11 of the Act on the ground that the means of revenue generation adopted by the assessee are purely commercial activity which are not authorized by the rules of the Association. The grants received by the assessee from BCCI represents sharing of advertisement income and is in the nature of income received by the activity of the assessee. According to the Assessing Officer, the assessee is a full-fledged member of the BCCI and as per the Memorandum of Association the subsidy received by the assessee is not a voluntary contribution. According to the Assessing Officer, the sponsorship received in respect of corporate boxes cannot constitute charity. Further, the conduct of the matches of Celebrity Cricket League Matches are in the nature of business and hit by the provisions of section 2(15) of the I.T. Act. The IPL matches conducted by the assessee are purely on commercial basis. Even though the Assessing Officer while denying the claim of exemption u/s 11 has given various observations as to why the assessee is not entitled to the exemption, we find the learned CIT (A), in a very cryptic order, has directed the Assessing Officer to allow the exemption u/s 11 of the Act, merely on the basis of Registration u/s 12AA available to the assessee. A perusal of the order of the learned CIT (A), which have already been reproduced in the preceding paragraph shows that the learned CIT (A) has not addressed the various observations made by the Assessing Officer while denying the claim of exemption u/s 11 of the I.T. Act. We find the Tribunal while allowing the registration claim u/s 12AA of the I.T. Act has at Para 34-35 of the order has held as under:

*“34-35. Thus, when the assessee is in receipt of income from activities, which fits in with Sections 11 and 12 of the Act as well as from sources which do not fall strictly with the objects of the trust, would not go for cancellation of registration under Section 12AA of the Act on the sole*

*ground that the assessee is in receipt of income which does not qualify for exemption straight away by itself. All that ultimately would arise in such cases is the question of considering whether Section 11 of the Act would at all apply to exempt these income from liability. These are matters of assessment and has nothing to do with the genuineness of the activity or the activities not in conformity with the objects of the trust. As rightly pointed out by learned Senior counsel appearing for the assessee, as is evident from the reading of Circular No.11 of 2008 dated 19.12.2008, the object of the insertion of first proviso to Section 2(15) of the Act was only to curtail institution, which under the garb of 'general public utility', carry on business or commercial activity only to escape the liability under the Act thereby gain unmerited exemption under Section 11 of the Act.*

17. Thus, a perusal of the same would show that the Tribunal has categorically held that the receipt of income from activities are subject matter of assessment and has nothing to do with the genuineness of the activities or the activities not in conformity with the objects of the Trust. Thus, the learned CIT (A) without properly understanding the directions of the Tribunal while granting registration u/s 12AA of the Act was carried away by the arguments advanced by the assessee and has directed the AO to allow exemption u/s 11 of the I.T.Act, which, in our opinion, is not correct. We, therefore, deem it proper to restore the issue to the file of the learned CIT (A) with a direction to decide the issue afresh after giving due opportunity of being heard to the assessee and pass a speaking order on this issue. Since the issue of exemption u/s 11 is restored to the file of the learned CIT (A) for fresh adjudication, the issue relating to disallowance u/s 40A(3) is also restored to his file for fresh adjudication. The grounds raised by the Revenue are accordingly allowed for statistical purposes.

**ITA No 972/Hyd/2019 – A.Y 2016-17**

18. The grounds raised by the revenue in this appeal read as follows:

“ 1. The Ld. CIT(A) erred in allowing the appeal of the assessee.

2. *The Ld.CIT(A) erred in directing the Assessing Officer to allow exemption u/s 11 to the assessee, without considering that the nature of activities carried out by the assessee is trade, commerce or business for a cess or fee or any other consideration ass brought out by the Assessing Officer in the Assessment order which is in violation to the 1st Proviso to Section 2(15) of the Income Tax Act, 1961.*

3. *The Ld.CIT(A) erred in directing the Assessing Officer to allow exemption u/s 11 to the assessee without considering that the receipts of the assessee from the activities exceeds twenty-five lakh rupees which clearly attracts the first proviso of Section 2(15) which are violated by the assessee.*

4. *The Ld.CT(A) erred in not adjudicating all the issues raised by the Assessing Officer in the Assessment Order before directing the AO to allow the exemption u/s 11 to the assessee.*

5. *The appellant craves leave to add, delete, substitute, and amend any ground of appeal before and/or at the time of hearing”*

19. After hearing both sides, we find the above grounds raised by the revenue are identical to the grounds raised in ITA No.2353/Hyd/2018. We have already decided the issue and referred the issue to the file of the learned CIT (A) for fresh adjudication. Following similar reasonings, we also restore the issues to the file of the learned CIT (A) for fresh adjudication. The grounds raised by the revenue are accordingly allowed for statistical purposes.

20. In the result, both the appeals filed by the Revenue are allowed for statistical purposes.

Order pronounced in the Open Court on 29<sup>th</sup> August, 2022.

<b>Sd/-</b> <b>(LALIET KUMAR)</b> <b>JUDICIAL MEMBER</b>	<b>Sd/-</b> <b>(R.K. PANDA)</b> <b>ACCOUNTANT MEMBER</b>
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Hyderabad, dated 29<sup>th</sup> August, 2022.  
**Vinodan/sps**

Copy to:

S.No	Addresses
1	ACIT (Exemption) 2 <sup>nd</sup> Floor, Opp: LB Stadium, Aayakar Bhavan, Basheerbagh, Hyderabad
2	The Hyderabad Cricket Association, Rajiv Gandhi International Cricket Stadium, Uppal, Hyderabad
3	CIT (A)-9, Hyderabad
4	Pr. CIT-(AP&TS), Hyderabad
5	CIT (Exemption) Hyderabad
6	DR, ITAT Hyderabad Benches
7	Guard File

*By Order*