IN THE INCOME TAX APPELLATE TRIBUNAL

"G" BENCH, MUMBAI

BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER AND

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No.2075/Mum./2018
(Assessment Year : 2010–11)

Slum Rehabilitation Authority
Finance Controller, 4th Floor
SRA Administrative Building
Behind HDIL Towers, Anant Kanekar Marg
Bandra (East), Mumbai 400 0151
PAN – AAAJS1094A ……. Appellant

v/s

Dy. Director of Income Tax (Exemp.)
Circle–2(1), Mumbai .....Respondent

ITA No.1806/Mum./2015
(Assessment Year : 2011–12)

Slum Rehabilitation Authority
Finance Controller, 4th Floor
SRA Administrative Building
Behind HDIL Towers, Anant Kanekar Marg
Bandra (East), Mumbai 400 0151
PAN – AAAJS1094A ……. Appellant

v/s

Dy. Director of Income Tax (Exemp.)
Circle–1(2), Mumbai .....Respondent

ITA No.2240/Mum./2016
(Assessment Year : 2012–13)

Slum Rehabilitation Authority
Finance Controller, 4th Floor
SRA Administrative Building
Behind HDIL Towers, Anant Kanekar Marg
Bandra (East), Mumbai 400 0151
PAN – AAAJS1094A ……. Appellant

v/s

Asstt. Commissioner of Income Tax (Exemp.)
Circle–2(1), Mumbai .....Respondent

ITA No.5086/Mum./2017
(Assessment Year : 2013–14)

Slum Rehabilitation Authority
Finance Controller, 4th Floor
SRA Administrative Building ……. Appellant
Behind HDIL Towers, Anant Kanekar Marg
Bandra (East), Mumbai 400 0151
PAN – AAAJS1094A

v/s

Dy. Director of Income Tax (Exemp.)
Circle–2(1), Mumbai .....Respondent

ITA No.1077/Mum./2018
(Assessment Year : 2014–15)

Slum Rehabilitation Authority
Finance Controller, 4th Floor
SRA Administrative Building ……. Appellant
Behind HDIL Towers, Anant Kanekar Marg
Bandra (East), Mumbai 400 0151
PAN – AAAJS1094A

v/s

Dy. Commissioner of Income Tax (Exemp.)
Circle–2(1), Mumbai .....Respondent

ITA No.700/Mum./2019
(Assessment Year : 2015–16)

Slum Rehabilitation Authority
Finance Controller, 4th Floor
SRA Administrative Building ……. Appellant
Behind HDIL Towers, Anant Kanekar Marg
Bandra (East), Mumbai 400 0151
PAN – AAAJS1094A

v/s

Dy. Commissioner of Income Tax (Exemp.)
Circle–2(1), Mumbai .....Respondent

ITA No.1998/Mum./2020
(Assessment Year : 2016–17)

Slum Rehabilitation Authority
Finance Controller, 4th Floor
SRA Administrative Building
Behind HDIL Towers
Anant Kanekar Marg, Bandra (East)
Mumbai 400 0151 PAN – AAAJS1094A ……. Appellant

v/s

Asstt. Commissioner of Income Tax (Exemp.)
Circle–2, Mumbai .....Respondent

Assessee by : Shri Bharat Raichandani a/w
Shri Aditya Navandar
Revenue by : Shri Manoj Kumar

Date of Hearing – 27/07/2022	Date of Order – 28/09/2022

O R D E R

PER SANDEEP SINGH KARHAIL, J.M.

These seven appeals are filed by the assessee challenging the separate orders passed under section 250 of the Income Tax Act, 1961 ('the Act') by the learned Commissioner of Income Tax (Appeals), ['*learned CIT(A)*'], for assessment years 2010–11 to 2016–17.

2. During the course of hearing, learned representative appearing for the parties agreed that the issues involved in all the appeals, inter-alia, are similar and primarily deals with denial of exemption under section 11 of the Act to the assessee. It was also submitted that the other issues raised in these appeals revolves around this primary issue. Learned representatives

agreed that the facts are also common in all these appeals. Accordingly, the learned representatives addressed their arguments by referring to the orders passed by the lower authorities for assessment year 2011–12, on the basis that same have dealt with various aspects of this issue. Therefore, in view of the above, these seven appeals were heard together and adjudicated by way of this consolidated order, taking ITA No. 1806/Mum./ 2015, for assessment year 2011–12, as lead case and its findings will be applied *mutatis mutandis* to other appeals of the assessee.

3. The brief facts, as emanating from the record, are: The assessee is a local authority created by the State of Maharashtra under Maharashtra Slum Area (Improvement, Clearance and Rehabilitation) Act, 1971. The assessee is registered as a charitable organisation with DIT (Exemptions), Mumbai under section 12A of the Act vide registration No. INS/36857 dated 24/02/2003. Being a local authority in terms of aforesaid statute as well as within the meaning of then existing section 10(20) and section 10(20A) of the Act, the assessee enjoyed the blanket exemption under the provisions of the Act up to the assessment year 2002–03. The Finance Act, 2002 deleted the provisions of section 10(20A) and introduced a new definition of local authorities under section 10(20) wherein Panchayat, Municipality, Municipal Committee and District Boards and Cantonment Boards only are included under section 10(20) of the Act. In view of the deletion of section 10(20A) and insertion of new definition of local authority under section 10(20), the local authority like MHADA, MMRDA and assessee, etc., came into the tax

net. However, the assessee continued to claim the exemption under section 11 of the Act.

4. For the assessment year 2011–12, assessee filed its return of income on 28/09/2011, along with income and expenditure account, balance sheet and audit report in form No. 10B, declaring total income at Rs. Nil. During the course of assessment proceedings, upon perusal of details, it was observed that the assessee is engaged in various commercial activities, which prima facie are in the nature of business. Accordingly, assessee was asked to show cause as to why exemption under section 11 of the Act, as claimed, be not denied in view of amendment to section 2(15) of the Act. In reply, assessee submitted that proviso to section 2(15) was introduced with effect from assessment year 2009–10 and the issue of applicability of proviso was raised in earlier years in the course of assessment proceedings. However, the issue was dropped pursuant to reply of the assessee and the assessment was made without invoking proviso to section 2(15) of the Act. The assessee further submitted that there is no change in the facts of the case since earlier assessment years. The assessee also submitted that assessee is a statutory authority constituted by an Act of State of Maharashtra and the primary objective of the assessee is rehabilitation of slum dwellers and to promote their welfare by providing better residential accommodation. The Assessing Officer ('*AO*') vide order dated 19/02/2014 passed under section 143(3) of the Act did not agree with the submissions of the assessee and, inter-alia, held that every assessment year has to be treated independent of earlier years and principle of *res judicata* doesn't

apply to the proceedings under the Act. The AO further held that the main source of funds for assessee are various fees and levies raised for the approval of plan from the developers, interest income etc. The AO further held that assessee is providing deferment facilities to various builders/developers and also providing the instalment facilities for which it is charging interest @16% to 18% per annum. Accordingly, the AO by applying provisions of section 2(15), as amended with effect from 01/04/2009, held that assessee is not entitled to exemption under section 11 in view of provision of section 13(8) of the Act and as a result the entire income of the assessee was liable to tax.

5. In appeal, learned CIT(A) vide impugned order dated 02/02/2015, for assessment year 2011–12, dismissed the appeal filed by the assessee on this issue, by observing as under:

> *"5.2 The first and main Ground of Appeal No. 1 together with Ground Nos. 3 and 4 are on the issue of denial of exemption u/s. 11 of the IT Act, 1961 claimed by the appellant. The AO has held that appellant is not engaged in carrying out charitable activity during the year, thereby has not applied its income for charitable purpose as required u/s. 11(1) for claiming exemption because of being involved/charging fees in relation to' activities in the nature of trade, commerce and business and charging fees for services in relation to such trade, commerce and business, which attracts proviso to section 2(15) of the I.T. Act, 1961. The A.O. has discussed in detail the activities of the appellant, the Auditors Report for the year taking note of the fact that the appellant is charging maintenance deposit, infrastructure charges, development charges from the developers more particularly various fees and levies raised for the approval of plan from the developers and interest income thereon. The relevant part of the findings of the A.O has been reproduced in the foregoing paragraphs. The A.O has also examined the nature of charitable activity carried on by the appellant, falling under the category of 'general public utility' as in section 2(15) of the IT. Act, 1961 where proviso to the said section is also attached w.e.f. A. Y. 2009-10. It is in reference to activities of 'general public utility of the appellant that proviso to section 2(15) has been found applicable by the A.O. The appellant is neither claiming nor found to be engaged in other charitable activities of education, medical relief or relief to the poor as defined u/s. 2(15) of the I.T. Act, 1961 for this purpose, though at some stage appellant has claimed to providing relief to economically deprived sections, which is not synonymous to relief to poor.*

The functions and responsibilities of the appellant - to formulate schemes for rehabilitation of slum areas and to get such schemes implemented - and charging fees and levies for approval of plans from the Developers is an activity giving rise to receipts and income from the activity of planning, regulation and formulation of development of slum area development. It is important to bring on record that the development of slum areas perse is not a charitable activity within the meaning of section 2(15) of the Income-tax Act, 1961. However, at the same time the revenues and income generated to the appellant by charging fees, levies more particularly classified in its accounts as Balcony enclosure fee, elevation charges, infrastructural development charges, premium income, penalty and staircase premium etc, are all in the definite nature of charging of fees for development and construction of various types. Charging fees and levy for grant of extended facilities in construction and development of buildings is an income arising from development and construction business where the developers are paying the amount to the appellant. Therefore, the sources of income of the appellant are none other than development and construction business and interest income from the surplus generated from such source.

5.2.1 The appellant has argued that even if the activity is in the nature of business so long as objects are charitable, the proviso cannot be applied. However, there is no such stipulation in the proviso to section 2(15) rather contrarily if a charitable organization carrying out objects of 'advancement of general public utility is involved in carrying on any activity in the nature of trade, commerce, business or is charging fees for services in relation to any trade, commerce, business, is excluded from being 'charitable. The case of the appellant is excluded from being charitable also because the charitable activity claimed by it is in the domain of advancement of general public utility' only. The profit motive behind such business, commerce or trade 'activity is not required to be separately examined and proved for applicability of proviso to section 2(15), The specific amendment by way of proviso to section 2(15) w.e.f. A.Y. 2009-10 does not provide for carrying out business trade or commerce per se for applicability of proviso, rather the stipulation in the proviso is 'in relation to' which is to be interpreted and applied in that context - in a wider term and not to be confined to carrying out trade, business and profession. It was held 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)'.

5.3 I have considered the facts and circumstances of the case, the assessment order of the A.O and the submissions of the appellant. The arguments and submissions of the appellant on the issue of applicability of proviso to section 2(15) of the IT Act, 1961 is also that the amounts received from the developers is not in the nature of income as there is no transaction with a consideration. However, the receipt of fees for approval of projects etc. is accepted by the appellant. The argument of the appellant is erroneously confined to trading transactions where consideration for sale of goods takes place. In fact the income as defined under the Income Tax Act under section 2(24) is inclusive of various profit and gains, Capital Gains, voluntary contributions and any sums chargeable to income tax. Further, the income' appearing u/s. 11 has a commercial connotation and in that context the amounts received by appellant are falling within the meaning of income for this purpose.

It is further held that the appellant has accounted such receipts as income in its books of accounts, thereby admitting the fact that such amounts are income for this purpose: Therefore, the argument of the appellant that such receipts are not income is rejected.

5.3.1 The appellant has during the appellate proceedings raised fresh ground that it is engaged in relief of economically deprived class of society thereby perhaps claiming that it is engaged in charitable activity of 'relief to the poor' as in section 2(15) of the I.T. Act, 1961. However this argument/ proposition is misplaced because relief of economically deprived class is not 'relief to the poor' as in section 2(15) of the I.T. Act, 1961. Apart from the fact that the claim of relief to economically deprived class is not the similar and same as relief to the poor, this argument has not been raised in the assessment proceedings hence, does not call for being admitted at appellate stage.

The levies, and fees derived by appellant is from Developers and as per accounts of the appellant there is no expenditure incurred directly for providing relief to poor rather all the transactions are confined to charging fees, levies from Developers and expenditure on administrative heads. Appellant has not entered in any direct transaction with 'poor' or weaker sections as no such material is placed before me during appellate proceedings also.

5.3.2 It is relevant to point out further two aspects on this claim of appellant as being engaged in relief to economically deprived class as distinct from 'relief to poor as in Section 2(15) of the IT. Act, 1961. Though 'relief to poor' or 'poor' has not been defined under the I.T. Act, 1961 yet the nodal agency in the Government of India for estimation of poverty, the Planning Commission in its poverty estimates for 2004-05 has defined poverty line at all Ingia level at Rs. 538/- in urban areas and Rs. 356/- in rural areas per capita per month. Therefore in this context there is no instance of having catered to the poor or people below poverty line, as defined above so as to consider that the appellant is engaged in relief to the poor as provided under section 2(15) of the LT. Act. The claim of the appellant for relief to economically deprived class of society is much vague, general and superficial in terms of relevance, definition and lacks any such services or charities having been rendered so as to be specifically considered as 'relief to the poor' for the purpose of section 2(15) of the I.T. Act, 1961.

Secondly, it is also on record that there is no such instance of any direct expenditure/application of income of the appellant which could be even remotely attributed to expenditure resulting in relief to economically deprived class of society. Therefore, this argument of the appellant is rejected. Even the expenditure under Schedule M 'Dharavi Redevelopment Project expenses' is on advertisement and publicity, car hire charges etc. in the nature of establishment expenditure. The income of the appellant is 79.19 crores from fees and premium in the nature of arising out from approvals for extended facilities. The expenditure is mainly on payment to employees and administrative expenses. Thus it is apparent and clear that the appellant has not carried out any activity and has not incurred any expenditure resulting in relief to the poor.

5.4 The appellant has relied on the decision of the Hon'ble Tribunal in its own case for A. Yrs, 2005-06 and 2008-09, particularly Para 7 & 8 which reads as under:

> *7. We have carefully considered the submissions of the rival parties and perused the material available on record. We find the facts are not in dispute in as much as it is also not in dispute that the AO has denied the exemption u/s 11 of the Act following the reasons given in the assessment order for the AY 2007-08 We further find that the la.CIT(A) following the Tribunal order for the A.Y 2003-04 and following the Tribunal order for the A.Y. 2003-04 and following the decisions of the Hon'ble Supreme Court (supra) however, allowed the exemption to the assessee. We further find that the Tribunal in assessee's own case for A.Y. 2007-08 on the similar facts after following the decision of Hon'ble Supreme Court in Gujarat Maritime Board (supra) has held vide para 6 & 7 appearing at Page 5 of the Tribunal order as under:*

> *'6. In the present case, the Slum Development Authorities i established for providing residential settlements to the slum dwellers without any profit motive. Moreover, primary purpose and the predominant object are to promote the welfare of the general public by providing better residential accommodations to slum dwellers and economically deprived class of society and said purpose would be charitable in nature only. Hence, in our humble opinion assessee's case is squarely covered by the principles laid down by Hon'ble Supreme Court of India in the case of Gujarat Maritime Boards (supra).*
>
> *7. In our opinion, the activities of the SRA, present assessee are charitable in nature and hence, the assessee is entitled for exemption u/s. 11 of the [T. Act. Moreover, the assessee has been also granted the registration u/s 12AA that has not been cancelled. Therefore, in our opinion, in the light of our above discussion no interference is called in the order under challenged before us and we accordingly confirm the order of the Ld CIT(A) and dismiss the ground taken by the revenue.'*
>
> *8. In absence of any distinguishing feature brought on record by the Revenue, we respectfully following the order of the Tribunal (supra) hold that since the activities of the assessee are charitable in nature, and hence, the assessee is entitled for exemption u/s, 11 of the Act. Accordingly, we decline to interfere with the order passed by the id:CIT(A) in directing the A.O to allow exemption u/s, 11 of the Act. The common grounds taken by the Revenue for the assessment years 2005-06 and 2008-09 are, therefore, rejected."*

5.5 It is on record that the appellate order of the Hon. Higher judicial authority relates to A.Y. 2005-06 and 2008-09 when proviso to section 2(15) was not in the statute. The amendment in section 2(15) by way of its proviso is w.e.f. 2009-10 and is liable to be considered from A.Y 2009-10 onwards. Therefore, the reliance placed by the appellant on the appellate order of earlier assessment years is irrelevant and not applicable to the issue of applicability of proviso to section 2(15) of the I.T. Act, 1961. It is further seen that the activities of the appellant for the earlier years in appellate orders also have been held to be in the field of 'general public utility of charitable purpose and since amendment by way of proviso to section 2(15) is on the very same field of 'general public utility', therefore, the findings of the A.O. and applicability of proviso to section 2(15) of the I.T. Act, 1961 is affirmed in the context of the order referred and relied by the appellant.

5.6 The order of Hon. High Court, Bombay for A.Y. 2005-06, 2007 08 and 2008-09 is also not on the issue of applicability of proviso to section 2(15) and there the issue of 'local authority' whether eligible for exemption u/s. 11 as a trust and element of profit motive was decided and not the issue of applicability of proviso to section 2(15) where carrying on business perse and/or element of profit motive are not required as per statute and hence not relevant.

5.7 The appellant has finally relied and argued on the legal issue of 'Rule of Consistency' in the context of applicability of proviso to section 2(15) of the I.T. Act, 1961 for the A.Y. under appeal before me i.e. A.Y. 2011-12. Such arguments were raised by the appellant before the A.O also who concluded that each assessment year has to be treated Independent of earlier year and principle of res-judicata does not apply. In fact the conclusion drawn by the A.O and legal position is settled and clear that 'Rule of Consistency' /res-judicata is not applicable and each assessment year is a separate proceedings, as also affirmed in the decision of the Apex Court in Bharat Sanchar Nigam Ltd. vs Union of India (S.C) 282 ITR. In another case of CIT Vs Seshasayee Industries Ld. (Mad.) 242 ITR 691, it was further held that the fact that its claim was not questioned in earlier years does not entitle the assessee to contend that the law should not be applied during the current A.Y. and in the case of Ace Investments (P) Ltd Vs. CIT (Mad) 244 ITR 166 it was held that facts can be

reconsidered in later year and record different finding - Finding for earlier year not conclusive."

5.7.1 The rule of consistency argued by the appellant is in fact not applicable because it is not a case where the issues and reasons relating to proviso to section 2(15) of the IT Act, 1961 and its applicability has been examined in earlier years (2009-10 and 2010-11) and found to be non applicable, rather it has not remained a subject matter of assessment /appellate proceedings in earlier assessment years. Therefore, it is not a case of any different finding of facts or different legal interpretation on the same facts so as to give rise to difference of opinion. Under the circumstances, on facts and as per settled legal position, the argument of the appellant for Rule of Consistency is not applicable and not relevant in this context."

Being aggrieved, the assessee is in appeal before us.

6. During the course of hearing, learned Authorised Representative ('*learned AR*') referred to various provisions of Maharashtra Slum Area (Improvement, Clearance and Rehabilitation) Act, 1971 under which the assessee is created. Further, by reference to the preamble of the aforesaid statute, learned AR submitted the assessee was created for improvement and clearance of slum areas in the state and for the redevelopment and for the protection of occupiers from eviction and distress warrants. The learned AR submitted that the assessee has to rehabilitate slum dwellers without receipt of any fees from them and whatever assessee charged from the developers/builders is for rehabilitation of slum dwellers. The learned AR also submitted that the funds collected by the assessee went back to the state government only, on dissolution of assessee. Further, all the activities undertaken by the assessee are within the purview of the aforesaid statute and therefore the same cannot be considered to be in the nature of trade/business. The learned AR by reiterating the submissions made before the lower authorities submitted that in earlier years functions of the

assessee was held to be for charitable purpose and there is no change in the facts and circumstances in assessment years under consideration.

7. On the other hand, learned Departmental Representative ('*learned DR*') submitted that the coordinate bench of the Tribunal in assessee's own case for assessment year 2009–10 has emphasised the aspect that registration and exemption are two different things and if proviso to section 2(15) of the Act is applicable then benefit of exemption would not be available to the assessee in that year. The learned DR by vehemently relying upon the orders passed by the lower authorities also submitted that the issue of applicability of proviso to section 2(15) of the Act was not under consideration before the Hon'ble jurisdiction High Court and coordinate bench of the Tribunal, in earlier years in the case of the assessee.

8. We have considered the rival submissions and perused the material available on record including the written submissions filed by both the parties. The main grievance of the assessee in these appeals is against denial of exemption under section 11 of the Act. As per the assessee, since it is an authority established under the statute of the State of Maharashtra, its functions and duties are well laid down in the said statute and it cannot perform any function or perform any duty, beyond what it has been authorised under the said statute. On the other hand, it is the plea of the Revenue that assessee charges/levies fees from builders/developers and also earns interest from deferred payment by them and thus same is in the nature of trade or business and therefore cannot be considered as a

charitable purpose under section 2(15) of the Act. Consequently, assessee is not entitled to claim exemption under section 11 of the Act.

9. Before proceeding further, it is relevant to take note of the provisions of section 2(15) of the Act, which defines the term 'charitable purpose':

> *"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 object of general public utility:*
>
> *Provided that 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 services 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"*

10. In this regard, it is also pertinent to note that the aforesaid provisos were incorporated in the Act w.e.f. 01/04/2009 and the term '*object of general public utility*' was further qualified by few more conditions. From the perusal of orders passed in the case of the assessee for assessment year 2009–10, forming part of the paper book, we find that applicability of proviso to section 2(15) of the Act was not in consideration before the coordinate bench of the Tribunal in first-round of proceedings, as the AO denied exemption under section 11 of the Act on the basis that assessee is not a trust and was created as local authority. However, proceedings under section 263 of the Act were initiated by the CIT, for assessment year 2009–10, on the basis that proviso to section 2(15) was not considered by the AO during the course of assessment proceedings, whereby the exemption under

section 11 of the Act will not be applicable to the case of assessee and assessee's activity falls within the realm of trade, commerce or business. The coordinate bench of the Tribunal in assessee's own case vide order dated 30/10/2015 in ITA No. 2435/Mum/2014, in Slum Rehabilitation Authority vs DIT, set aside proceedings initiated under section 263 of the Act, firstly, on the basis that the assessment order was merged with the appellate order and thus beyond the scope of revision under section 263 of the Act. Secondly, it was held that the issue is purely academic as there is no difference at all between the income which was assessed in the original assessment order and the income which is now being sought to be assessed in the wake of order under section 263 of the Act. This order of coordinate bench of the Tribunal was upheld by the Hon'ble jurisdictional High Court in Revenue's appeal in ITA No. 1359 of 2016 vide judgment dated 26/03/2019. Thus, no finding on merits of applicability of proviso to section 2(15) of the Act was rendered in earlier years in the case of assessee.

11. Further, we find that recently, in assessee's own case in Slum Rehabilitation Authority vs DIT (Exemptions), in ITA No. 2436/Mum./2014, for assessment year 2009–10, the coordinate bench of the Tribunal vide order dated 05/04/2022, while quashing the withdrawal of registration granted under section 12A of the Act to the assessee held that where the receipts are coming under the purview of proviso to section 2(15) of the Act, then the benefit of exemption to the income for the relevant previous year would not be available to the assessee and the Revenue can bring the said income to tax to secure the interest of the Revenue. In view of the above,

we find no merits in the submissions of the assessee that the applicability of proviso to section 2(15) was already considered in the case of the assessee.

12. It has also been submitted by the learned AR that assessee was established for providing '*relief to the poor*', as it is engaged in facilitating the provisions of housing to slum dwellers, who are economically weaker section of the society and thus the proviso to section 2 (15) of the Act is not applicable in the case of the assessee as the same only qualifies the term '*any other object of general public utility*'. It is no doubt true that the term '*relief of the poor*' encompasses a wide range of objects for the welfare of the economically and socially disadvantaged or needy. Further, it will also include within its ambit purposes such as relief to destitute, orphans or the handicapped, disadvantaged women or children, small and marginal farmers, indigent artisans or senior citizens in need of aid. In the present case, apart from placing reliance upon the preamble of Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 nothing has brought on record to show that assessee has in fact undertaken activities in order to grant '*relief to the poor*' so as to be covered under this limb of section 2(15) of the Act. Reference was made to the financials of the assessee for the year ending 31st March 2011. However, from the same it is not evident as to what all activities were undertaken and expenditure was incurred by the assessee in order to satisfy this condition of section 2(15) of the Act. We further find that even the learned CIT(A), merely on the basis of some technical data regarding the poverty line, rejected the aforesaid plea of the assessee. Thus, in view of the above, we deem it appropriate to

remand this aspect to the file of AO for *de novo* adjudication. We further direct the AO to examine what all activities have been carried out by the assessee in furtherance of its objective, as stated in the preamble of the aforesaid statute. We also direct the assessee to furnish all the details as may be required for complete adjudication of this issue. Thus, upon examination if it is found that the case of the assessee falls within the category of '*relief of the poor*', then other categories of inclusive definition of 'charitable purpose' need not be satisfied. However, if it is found that the assessee is not rendering activities which will result in '*relief of the poor'*, then it is to be seen whether there is advancement of any object of general public utility. For the same, the conditions laid down in the proviso, inserted with effect from 01/04/2009, becomes relevant.

13. Reference has been made to section 3A(3) of the aforesaid statute, which provides for the following powers, duties and functions of the Slum Rehabilitation Authority:

(a) to survey and review existing position regarding slum areas;

(b) to formulate schemes for rehabilitation of slum areas;

(c) to get the Slum Rehabilitation Scheme implemented;

(d) to do all such other acts and things as may be necessary for achieving the objects of rehabilitation of slums.

14. Thus, as per the assessee, the fees/levy collected by it is under its powers, duties and functions as laid down in the aforesaid statute and in furtherance of object, for which it has been established under the aforesaid

statute. Further, reference was also made to section 3M of the aforesaid statute to submit that the assessee has to have and maintain its own funds, which it shall receive from grants from the state government; fees, costs and charges received by it under the statute etc. It is the plea of the Revenue that the nature of receipts is from the services rendered to the builders and developers for smooth development of residential and commercial building in slum areas and therefore, these activities are directly hit by the proviso to section 2(15) of the Act. The assessee vide its written submission submitted that it has levied following fees/charges, in pursuance of circulars issued under the power given to it by the various statutes:

S.R.A. Schemes Fees & Penalty	*Circular of SRA 138,104,1& 47*
Revalidation Fee of IOA + C + TRANSIT	*Circular of SRA 138,1 & 47*
Scrutiny Fee–LOI–Amended, Amalgamated	*Circular of SRA 138, 1 & 47*
Revalidation fee of LOI	*Circular of SRA 138, 1 & 47*
Revalidation Fee	*Circular of SRA 47*
Scrutiny Fees – Amended Plan	*Circular of SRA 1 & 47*
Scrutiny Fees – Layout Proposal + Amended	*Circular of SRA 1 & 47*
Scrutiny Fees – Temporary Transit Fee + Amended	*Circular of SRA 104, 1, 47 & 138*
Change of Developer charges	*Circular of SRA 19*
Infrastructural Development Charges SRA's Share (1/3)	*Circular of SRA 85 + Govt Order dated 20/07/2009 & DCPR 9*
Infrastructural Development Charges SRA's Share (10%)	*Circular of SRA 7 & 85 + Govt Order dated 20/7/2009*
MRTP Development Charges SRA's Share (1/3)	*Circular of SRA 47 & 85 + Govt Order dated 20/7/2009*
Land Premium Income SRA's Share 10%	*85, DCPR rule 1.11, Govt Order dated 22/3/22; 22/9/20; 26/5/09; 2/7/10*

Openspace Deficiency Premium	*Circular of SRA 18, DCPR 6.16, 6.18*
Staircase Premium	*Circular of SRA 18, DCPR 6.14*
Premium As per Circ. 161	*Circular of SRA 161*
Premium for Parking Lot	*Circular of SRA 104*
Penalty – Non Performance	*Circular of SRA 93,104, 155*
Penalty (Regularisation Charges)	*Circular of SRA 93*

15. We find that apart from making general statement, the lower authorities have not examined whether these receipts arose on carrying out of the activities integral to assessee's functions or its principal objects or as to whether the same was necessary for furtherance of objects for which the assessee was established. In fact, the continuation of principal / main activity and the direct correlation between the two is relevant to decide whether assessee's case fall within the category of '*advancement of any other object of general public utility*'. Therefore, we remand this issue also to the file of AO for *de novo* adjudication after necessary examination of the aforesaid aspects. We further direct the assessee to provide details as may be required by the AO for complete adjudication of aforesaid aspects.

16. Since, various aspects pertaining to section 2(15) of the Act have been remanded to the AO for *de novo* adjudication and once the assessee satisfies those aspects, it can be said to be eligible to claim exemption under section 11 of the Act. Therefore, the ground raised by the assessee pertaining to denial of exemption under section 11 of the Act is also remanded to the file of AO for *de novo* adjudication in light of the conclusion reached in the remand proceedings.

17. As all the other grounds raised by the assessee, in these appeals, revolve around assessee's claim of exemption under section 11 of the Act, therefore, these grounds are also remanded to the AO for *de novo* adjudication. Accordingly, all the grounds raised by the assessee, in these appeals, are allowed for statistical purpose. Since all these appeals are remanded to the AO for fresh consideration, the assessee shall be at liberty to raise any other plea in support of its claim including the one raised vide additional ground in some of the present appeals.

18. In the result, all the appeals by the assessee are allowed for statistical purpose.

Order pronounced in the open Court on 28/09/2022

Sd/-	**Sd/-**
OM PRAKASH KANT	**SANDEEP SINGH KARHAIL**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

MUMBAI, DATED: 28/09/2022

Copy of the order forwarded to:

(1) The Assessee;
(2) The Revenue;
(3) The CIT(A);
(4) The CIT, Mumbai City concerned;
(5) The DR, ITAT, Mumbai;
(6) Guard file.

True Copy
By Order

Pradeep J. Chowdhury
Sr. Private Secretary

Assistant Registrar
ITAT, Mumbai