

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

**BEFORE Ms. MADHUMITA ROY, JUDICIAL MEMBER &  
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

I.T.A. No.257/Ind/2019  
(Assessment Year: 2012-13)

Madhya Pradesh Madhyam 40, Administrative Zone, Arera Hills, Bhopal, Madhya Pradesh 462011	Vs.	Asstt. Commissioner of Income Tax (Exemption) (Circle), Aaykar Bhawan, Metro Walk, Bittan Market, Arera Colony, Bhopal, Madhya Pradesh - 462011
<b>PAN No.AAAJM0294J</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Sumit Nema, Sr. Advocate with Shri Gagan Tiwari, Adv.
<b>Respondent by :</b>	Shri Ashish Porwal, Sr.D.R.

<b>Date of Hearing</b>	19.09.2022
<b>Date of Pronouncement</b>	21.09.2022

O R D E R

**PER Ms. MADHUMITA ROY - JM:**

The instant appeal filed by the assessee is directed against the order dated 31.01.2019 passed by the Commissioner of Income Tax (Appeals)-2, Bhopal arising out of the order dated 26.03.2015 passed by the Assistant Commissioner of Income Tax (Exemption) (Circle), Bhopal under Section

143(3) of the Income Tax Act, 1961 (hereinafter referred as to 'the Act') for Assessment Year 2012-13.

2. The assessee, registered under the Society's Registration Act with effect from 01.10.1983 and also registered under Section 12A of the Act with effect from 29.01.1986, filed its return of income on 25.09.2012 declaring total income at Nil after claiming exemption under Section 12 of the Act. The assessee is an institution wholly owned by the Government of Madhya Pradesh. It is engaged in the activities of publication of Rozgar Nirman Newspaper etc., production of documentary films, T.V. reports etc. for the State Government and public sector undertakings. The assessee society has shown gross receipts of Rs.10,88,47,870/- against which the society has claimed revenue expenditure of Rs.10,50,48,104/- and capital expenditure of Rs.49,07,203/- thereby claiming a deduction of Rs.10,99,55,308/- as expenditure. It has claimed a net deficit of Rs.11,07,437/- in the computation of income. The claim of the assessee for deduction under Section 11 has been rejected by the Ld. AO holding that the assessee's activities were not for 'charitable purposes' within the meaning of 2(15) of the Act. Consequentially, the excess of income over expenditure of Rs.3799766/- has been treated as business income of the assessee which has further been confirmed by the first appellate authority. Hence, the instant appeal before us.

3. At the time of hearing of the instant appeal, learned counsel for the assessee submitted before us that the issue raised before us by the appellant is covered by its own judgment passed by the Co-ordinate Bench in ITA Nos.280/Ind/2014 & 692/Ind/2013, A.Ys. 2009-10 & 2010-11. A copy whereof has duly been submitted for our perusal. Such submissions made by the Ld.AR has not been controverted by the Ld.DR with all his fairness.

4. We have heard the rival submissions made by the respective parties. We have also perused the orders passed by the authorities below including the order passed by the Co-ordinate Bench in ITA Nos.280/Ind/2014 & 692/Ind/2013, A.Ys. 2009-10 & 2010-11. It appears that by allowing the issue in favour of the assessee, the Co-ordinate Bench has been pleased to observe as follows:

*“ 9. We have given our thoughtful consideration to the facts of the present case and the case-laws relied upon by the parties. We find that assessee's activities have not been changed at all since the date of its inception and the assessee was fully eligible for exemption u/s 11 & 12 of the I.T. Act. The assessee society was constituted by the State Govt. for the benefit of General Public to provide them information regarding employments, education institutions and other information of the govt. schemes. The objectives of the assessee society are publication of weekly newspaper namely "Rozgar Aur Nirman" to supply the material related to advertisement of public welfare schemes of Government of Madhya Pradesh and its undertaking and do such all other acts that are necessary for achievement of the objectives of the society. Therefore, the Revenue Authorities are not justified in holding that the assessee was involved in carrying on the activity in the nature of trade, commerce or business. We find that prior to the introduction of the proviso to section 2(15), there was no dispute that the assessee was established for charitable purposes. The main object of the assessee is for the benefit of General Public to provide them information regarding employments, education institutions and other information of the govt. schemes, therefore, we find force in the contention of the assessee that profit making is not the driving force or objective of the assessee and income generated by the assessee does not find its way into the pockets of any individuals or entities. It is to be utilized fully for the purposes of the objects of the assessee. Further, the expression 'charitable purpose' should be construed not in a vacuum, but in the specific context of section 10(23C)(iv), which specifically deals with the income received by any person on behalf of, inter alia, an institution established for charitable purposes. Therefore, the meaning of the expression 'charitable purposes' has to be examined in the context of section 10(23C)(iv). We are of the view that since the object of promoting employments/educational institutions/govt. schemes for the general public is a charitable purpose, the expression 'charitable purpose', as defined in section 2(15) cannot be construed literally and in absolute terms. It has to take colour and be considered in the context of section 10(23C)(iv) as also held in the above judicial pronouncements. On consideration of these facts in the light of the aforesaid judgments, we are of the view that the authorities below are not justified in*

*disallowing the entire exemption. We, therefore, direct the Assessing Officer to delete the disallowances. Thus, ground nos. 1 to 5 are allowed.”*

In the absence of changed circumstance, we do not find any reason to deviate from the stand taken by the Co-ordinate Bench. Hence, respectfully relying upon the order passed by the Co-ordinate Bench, we allow the appeal preferred by the assessee holding that the assessee is a charitable institution under Section 11 of the Act. Consequentially, the addition made by the authorities below is, therefore, deleted.

5. In the result, assessee's appeal is, therefore, allowed.

**This Order pronounced in Open Court on 21/09/2022**

Sd/-  
(BHAGIRATH MAL BIYANI)  
**ACCOUNTANT MEMBER**  
Indore; Dated 21/09/2022

Sd/-  
(MADHUMITA ROY)  
**JUDICIAL MEMBER**

S. K. Sinha, Sr. PS

**TRUE COPY**

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Indore
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

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