

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयंतभाई, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 331/JP/2022
निर्धारण वर्ष/Assessment Year : 2020-21.

Rajasthan Para-Medical Council, C-7, Sultan House, 2 nd & 3 rd Floor, Sawai Jai Singh Highway, Bani Park, Jaipur.	बनाम Vs.	Commissioner of Income-tax (Exemptions) Kailash Height, Lal Kothi, Tonk Road, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No. AAAGR 0105 G		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Shyam Lal Agarwal (CA) &
Shri Tarun Agarwal (CA)

राजस्व की ओर से/ Revenue by : Shri James Kurian (CIT) &
Shri P.R.Meena (CIT)

सुनवाई की तारीख/ Date of Hearing : 12/01/2023
उदघोषणा की तारीख/ Date of Pronouncement: 3/04/2023

आदेश / ORDER

PER: SANDEEP GOSAIN, J.M.

This appeal by the assessee is directed against the order dated 16.08.2022 of
ld. CIT (Exemptions), Jaipur passed under section 12AA(1)(b) of the IT Act, 1961.

The assessee has raised the following grounds :-

1. The learned Commissioner of Income Tax (Exemptions), Jaipur has erred in law as well as in facts in rejecting the application of the Council for seeking registration u/s 12AA of the Income Tax Act, 1961 and holding that the applicant society cannot be held as charitable within the meaning of Sec. 2(15) of the Income-tax Act, 1961.

2. The learned Commissioner of Income Tax (Exemptions), Jaipur has erred in law as well as in facts holding that the Council is not engaged in the " Charitable purpose " of education, and that its activities fall under "General Public Utility" thereby attracting Proviso to Sec. 2(15).
3. The learned Commissioner of Income Tax (Exemptions), Jaipur has erred in law as well as in facts in not providing proper opportunity of being heard to the appellant before passing the order.
4. The petitioner craves the right to add, alter, modify or amend in any manner the grounds of appeal on or before the hearing.

2. The brief facts of the case are that the assessee Rajasthan Para-Medical Council is established by an Act of State Legislature with the aim to develop, promote and regulate education in para-medical courses and mainly carrying out the functions as prescribed under section 13 of the RPMC Act, 2008 which includes (i) to promote innovations, research and development in establishment of new Para-medical subjects in the Schedule; (ii) to formulate schemes for promoting Para-medical education; (iii) to lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment; (iv) examination in Para-medical education; (v) to recognize the institutions conducting courses in Para-medical subjects and provide guidelines for admission of student for imparting Para-medical education; (vi) to inspect or cause to be inspected any Para-medical institution; (vii) to constitute a board for conducting the examination in Para-medical subjects so as to maintain uniformity of standards. The applicant filed application online on 04.06.2020 in Form No. 10A for seeking registration under section 12AA of the Income Tax Act, 1961. The applicant was issued a letter/notice No. ITBA/EXM/F/41/2020-

21/1027702192(1) dated 12.08.2020 requesting therein to submit certain documents/explanations by 25.08.2020 and to produce original RC/MOA for verification. However, only part details were submitted the applicant. Accordingly, a show cause notice was issued to the applicant society vide No. ITBA/EXM/F/41/2020-21/1029329636(1) dated 29.12.2020 through which certain details were called for and date of hearing was fixed as 11.01.2021. In compliance, the applicant council furnished reply on 06.01.2021 along with the details called for, which has been examined in detail. The reply to the specific query on payment of taxes on surplus in different years has been found inappropriate as per the provisions of the I.T. Act, 1961. The Id. CIT (E) rejected the application for registration under section 12A of the IT Act, 1961 stating that it is not covered as Education because it is a regulatory body for Para-medical education and does not provide direct schooling. As per the order, it was mentioned that the appellant Council is covered under General Public utility but since, the major receipts are from exam fee, revaluation fee, students registration fee, affiliation etc., hence are treated as business receipts. Aggrieved by the order of the Id. CIT (E), the assessee has filed the present appeal before the Tribunal.

3. The grounds no. 1 to 3 raised by the assessee are inter-connected and inter-related, therefore, these grounds are being disposed off together.

4. Before us, the Id. Counsel for the assessee has submitted common submissions for both the grounds as under :-

1. A Brief About the Appellant :

Rajasthan Para Medical Council (the Appellant) is a 100% owned and controlled by the Government of Rajasthan constituted by an Act of the Legislature in the year 2008 as Rajasthan Para medical Council Act, 2008 with the primary objective to develop, promote and regulate the Para-medical education and profession in the state of Rajasthan. It also aims for the recognition of institutions under its control and supervision in a systematic manner for imparting education or training in Para Medical subjects in the state and for matters connected therewith or incidental thereto.

The aim of the Council is also to promote innovations, research & development in Para-Medical subjects and establishment of new Para-Medical subjects. The Rajasthan Para-Medical Council is formulating schemes for promoting Para-Medical education and promoting an effective link between Para-Medical education and medical education.

2. The major functions of the Appellant are:

- i. Proscribing syllabus and curriculum for various para-medical courses
- ii. Conducting qualifying examination for the courses
- iii. Registration and granting certificate to qualified persons to practice their profession. (to serve the Public Health under qualified and trained hands and mindsets)
- iv. Granting recognition to the training institutions and inspection there on.

The qualifications offered by the Appellant are :

Sr.No	Courses	Eligibility	Duration
1	Diploma in Medical Laboratory Technology	10 + 2 (Science subject)	2 Years
2	Diploma in Radiation Technology	10 + 2 (Science subject)	2 Years
3	Diploma in Dental Mechanics Technology	10 + 2 (Science subject)	2 Years
4	Diploma in Dental Hygiene Technology	10 + 2 (Science subject)	2 Years

		subject)	
5	Diploma in Operation Theater Technology	10 + 2 (Science subject)	2 Years
6	Diploma in Dialysis Technology	10 + 2 (Science subject)	2 Years
7	Diploma in Orthopedic Technology	10 + 2 (Science subject)	2 Years
8	Diploma in ECG Technology	10 + 2 (Science subject)	2 Years
9	Diploma in Blood Bank Technology	10 + 2 (Science subject)	2 Years
10	Diploma in Endoscopy Technology	10 + 2 (Science subject)	2 Years
11	Diploma in EEG Technology	10 + 2 (Science subject)	2 Years
12	Diploma in Cath Lab Technology	10 + 2 (Science subject)	2 Years
13	Diploma in Emergency and Trauma Care Technology	10 + 2 (Science subject)	2 Years
14	Diploma in Ophthalmic Technology	10 + 2 (Science subject)	2 Years
15	Diploma in Perfusion Technology	10 + 2 (Science subject)	2 Years
16	Diploma in Medical Laboratory Technology	10 + 2 (Science subject)	2 Years

3. The powers prescribed to the Council by the Act, are enumerated below:

As per Section 13 of the Act, the Act has empowered the Council to

- (i) to maintain the Register of Para-medical professionals;
- (ii) to hear and decide appeals from the decision of the Registrar in such manner as may be prescribed by regulations;
- (iii) to prescribe by regulations a code of ethics for regulating the professional conduct of registered Para-medical professionals;

(iv) to reprimand a registered Para-medical professional to suspend or remove the name from the Register of Para-medical professionals, or to take such other disciplinary action against him/her as may, in the opinion of the Council, be necessary or expedient;

(v) to permit any member to remain absent from three consecutive meeting of the Council;

(vi) to promote innovations, research and development in establishment of new Para-medical subjects in the Schedule;

(vii) to recommend to the State Government to include new para-medical subjects in the Schedule;

(viii) to formulate schemes for promoting Para-medical education;

(ix) to promote an effective link between para-medical education and medical education, and to promote research and development in Para-medical subjects;

(x) to lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examination in Para-medical education;

(xi) to fix norms and guidelines for institutional charges and other fees;

(xii) to recognize the institutions conducting courses in Para-medical subjects;

(xiii) to provide guidelines for admission of student to Para-medical institutions imparting Para-medical education;

(xiv) to inspect or cause to be inspected any Para-medical institution;

(xv) to constitute a board for conducting the examination in Para-medical subjects so as to maintain uniformity of standards; and

(xvi) to perform such other functions as may be prescribed by rules.

The Council is also the sole recognized body to regulate the para-medical profession in the State of Rajasthan through qualification courses.

In view of the above it is clearly established that the Appellant Council is constituted by the State Government primarily for para-medical education and to promote, develop & regulate the same for the welfare of the society, and the public health with no intent of any business and profit at all.

4. On the Major findings in the impugned order of the Learned CIT (E):

- 1. The Learned CIT at page 15 of the order has held that; "Further, the direct income shown in the Income & Exp. accounts comprises Mainly registration fees, counselling fees, examination fees, Inspection fees, revaluation fees etc which definitely are of the nature of Business/commercial Receipts. It is pertinent to state that the income from such commercial activities is forming 88.28% for F.Y. 2015-16, 73.39% for F.Y.2016-17, 74.01% for F.Y. 2017-18 ,88.32% for F.Y. 2018-19 & 60.5% for F.Y. 2019-20 which is more than 20% i.e. in contravention to the provisions laid down in 1st proviso to Sec. 2(15). Hence, the applicant fails condition (b) of the proviso. Further, the activities against which the commercial receipts are being generated are not the incidental but are pre-dominant activity of the applicant Council. Hence, the assessee also fails condition (a) of the proviso. Therefore, as per the proviso, such activity in the nature of advancement of an object of GPU shall not qualify as charitable activity."*

Here, it is pertinent to note that the Learned CIT in his order has clearly spelt the nature of receipts which apparently directly from **education** being registration fee , counseling fee , examinations fee revaluation fee , inspection fee etc. but has without any basis or fact has grossly erred by holding it as business income for the Council, thereby trying to divert the whole issue by implying that the appellant has been doing business of education, so as to transfer the issue to the residuary limb of GPU and thereby

rejecting the application by applying the proviso to section 2(15), since the proviso is not applicable to education.

Further, the Ld CIT at para 07 of page 15 of the order has mentioned that "07. Based on above discussion, it is clear that the activities of the applicant society are not charitable in nature as **it is predominantly carrying out functions of a Regulatory Body** consisting of maintenance of Registers of registered para-medical professionals and annual publication of names there of, recognition of para-medical institutions and approval for conduction of any course in para-medical subjects but does not train/ educate/ disseminate knowledge. The applicant is therefore not engaged in the "charitable purpose" of education, and hence its activities fall under "General Public Utility" thereby attracting Proviso to Sec. 2(15)."

The above finding with the relevant paras of the order , itself settle the issue that it is a regulatory body, conduct exam, prescribe courses and recognize institution for education and training for which the regular inspections are made by which it provide the education in a systematic manner . Further it accepts that it is a GPU where by applying the proviso, the registration is denied. Further the case law referred is fundamentally applied on wrong interpretation without going to the facts of the case that it is established education Institution by an Act itself and provide and promote the education in a systematic manner. The said case law referred is dealt in the case laws as reported by us herein after.

The learned CIT(E) has even after agreeing and spelling that the revenue is also from education and also a regulatory body and provide degree/Diploma and do the registration, conduct

examination, has grossly erred in not granting registration under the limb of "Education" and rejecting the application.

5. The applicability of the proviso to section 2(15) as made by the Ld CIT is far away from the facts as all income are from the main object of Education only and all functions are as per the Act , there is no question of any business at all . The activities performed by the Council are as per the Act and the core activities undertaken by the Council are towards achieving their predominant object of education. Even if we discuss the matter also as a GPU , all the revenue are from the main object and there is no other revenue from any business and hence the proviso is not applicable in case of added registration is given as GPU.

Further, it is a settled through various series of judgments of Hon.ble Supreme court , High Court and Hon'ble this tribunal that, where the predominant object is charitable, the proviso to section 2(15) of the Income Tax Act, 1961 is not applicable.

6. The Council is therefore covered under the limb of education.

Further, we would like to mention that the there is no doubt to the fact that the Council is a body owned and governed by the State Government having the purpose to provide and regulate education of para-medical courses and to implement the Educational Policy of the State and the facts and circumstances of the cases referred by Ld CIT (E) are conceptually misinterpreted from the facts of the present case.

The State Government implements its education policy through these bodies to develop and regulate the professional services in the area of medical treatment and allied services. These professional supplements the work of highly trained and skilled medical professionals to support various treatment and also play a vital role in the time of pandemic when there is shortage of

trained medical professionals as was largely witnessed by the whole world at the time of pandemic.

Further, it is very important and matter of concern that the institution affiliated with the Council are treated and granted exemption as educational institution, where they cannot provide education without affiliation and all exams are held by the Council.

Here we would like to categorically mention that the Appellant Council is providing education at each level directly under its supervision and control in a systematic manner, and also to regulate the educational institutions to implement the Educational Policy of the State. Further, it is also important to mention that the affiliated institutions of the Council are provided registration as Charitable institution under the limb of 'Education'.

The Honorable Supreme Court in the case of Assam State Text Book Production and Publication Corporation Ltd. has mentioned in the similar circumstances that State - controlled Educational Committees/Boards had been constituted to implement the educational policy of the States and consequently they should be treated as educational institutions.

There is no system of distribution of surplus in the Council and the surplus have to be utilized only for the purposes of the Council.

The acid test to determine whether any institution is constituted for the purpose of earning profit or charity could be the manner the distribution of surplus is made among the members. Where the surplus is not distributed among the members but used for general public, such institution is only meant for charity.

Case Laws relied upon in support of our submissions.

1. The case of the appellant is squarely covered by the decision of Honorable Delhi High Court in Council for the Indian School Certificate

Examinations vs. DGIT reported in (2012) 362 ITR 436 (Delhi) wherein it has been held as under:- 4. Reading of section 10(23C)(iv) shows that any University or other educational institution existing solely for educational purposes qualify under the clause. The University and the educational institution should not be for the purposes of profit. The second requirement is negative in nature, whereas the first requirement is positive. **We cannot accept the contention of the Revenue and the reasoning given in the impugned order that the petitioner is not an educational institution because it is an examination body and its principal work is to conduct examination and charge examination fee, etc.** The words "educational institution" used in Section 10(23C)(vi) and the phrase "educational purpose" have been interpreted and examined in several cases. We have a direct decision of Orissa High Court in the case of Secondary Board of Education v. ITO, MANU/OR/0151/1972 : (1972) 86 ITR 408 (Ori).

2. In the case of ADIT (Exemption) vs. Jeevan Vidhya Mission (2015) 155 ITD 1150, the Honorable Mumbai bench of the ITAT analyzed scope of the term 'Education' as envisaged by the legislature while mentioning it u/s 2(15) and held that "8.1 In our considered opinion, based upon analysis of the facts of this case, the assessee trust is engaged in the field of 'education'. In our considered view, based upon our understanding of law, there is no merit in the order of Assessing Officer to give a restricted meaning to the scope of meaning of term educational activities. It is not necessary that there should be holding of regular classes or wholesome educational activities to be only eligible to be called educational activities eligible for benefits under section 11 and 12. As per our understanding, the term "education" is of wide scope and amplitude, especially in the context of section 2(15). In this fast evolving society, the term 'education' has assumed greater role and significance, then ever. Education has got pivotal role in evolution of a society. Therefore, keeping this crucial aspect in mind, the legislature in its wisdom had decided to place this activity within the definition clause of the term "charitable

purpose", as per section 2(15) of the Income-tax Act, wherein it has been specifically mentioned that the term 'charitable purpose' includes "education" Thus, the very activity of education itself has been included within the meaning of the term 'charitable purpose'. It may further be seen that activity of imparting "education" has been specifically included in the definition, thus showing that the intention of the legislature, very clearly, is to promote education, which is further fortified by the fact that when the first proviso was inserted to section 2(15), the activity of 'education' was not covered therein and only other object of general public utility alone was covered therein. The first proviso was brought in to curtail the scope of 'charitable purpose' with respect to the activities of general public utility, by excluding the same from this definition, if it involved carrying on of any activity in the nature of trade, commerce or business. Further, even after huge litigation with respect to blanket exemption to educational institutions, when the amendment was made by the Finance Act, 2009, the activity of the education was kept outside the purview of newly inserted proviso. Thus, impliedly, it can be said that, it is clear that the legislature has given great significance to the utility of 'education' in our country.

3. The Honorable Supreme Court in the Case of Assam State Text Book Production & Publication Corpn. Ltd. has held that "Following the judgment of the Rajasthan High Court, we are of the view that, in this case, the High Court, in its impugned judgment, has not considered the historical background in which the Corporation came to be constituted; secondly, the High Court ought to have considered the source of funding, the shareholding pattern and aspects, such as Return on Investment; thirdly, it has not considered the letters issued by CBDT which are referred to in the judgment of the Rajasthan High Court granting benefit of exemption to various Board/Societies in the country under section 10(22) of the Act; fourthly, it has failed to consider the judgments mentioned hereinabove; and lastly, it has failed to consider the letter of the Central Government dated 9-7-1973, to the

effect that all State-controlled Educational Committee(s)/ Board(s) have been constituted to implement the Educational policy of the State(s), consequently, they should be treated as Educational Institution.

4. In the case of Secondary Board Of education v. ITO (1972) 86 ITR 408, the Honorable Orissa High Court has held "One of the source of income is earning profits by compilation, publication, printing and sale of text books. The profit so earned entered into the Board Fund. The income and expenditure of the Board is controlled and the entire expenditure is to be directed towards development and expansion of educational purposes. Even if there is some surplus it is not appropriated by others but remain as a part of the sinking fund to be devoted to the cause of as and when necessary. This being the objective and there being various ways of control of income and expenditure, the Board of Secondary Education cannot be said to be existing for purposes of profit."

5. The decision of Honorable Rajasthan High Court in CIT vs. Rajasthan State Text Book Board (2000) 113 Taxman 204 (Raj.) wherein it has been held as under:- "It could be seen from the orders of the Commissioner (Appeals) as well as the tribunal that, in a similar situation, in the case of Tamil Nadu Text Book Society, the CBDT, as per the letter dt. 19.8.1975 and F.No.184/26 of 1975, stated that the Tamil Nadu Text Book Society was an educational institution, existing solely for the purpose of education, within the meaning of Sec.10(22). It was not disputed that the aims and objects of the Tamil Nadu Text Book Society and those of the assessee were almost identical. It was also not shown that the surplus amount, if any, of the assessee, was used for any other purpose or distributed to other members. The Commissioner (Appeals) as well as the Tribunal had noticed that even if some amount remained surplus, that was utilised only for the purposes of education. Thus, having regard to the concurrent finding of act recorded by the Commissioner(Appeals) and the tribunal has also taking note of the letter of the CBDT itself, it was not possible to say that the order of the tribunal was

erroneous in any way. In this way, no question of law arose for consideration, much less a substantial question of law.

6. The Honorable Rajasthan High Court in the case of Rajasthan Hindi Granth Academy Versus Deputy Commissioner of Income Tax (D.B. Income Tax Appeal No. 302 / 2016), wherein it has been held as under:- "10. Before proceeding with the matter, it will not be out of place to mention that Rajasthan Hindi Granth Academy is established by the State Government to see that the books are available to the students of the educational institutions at the grass root level, (18 of 18) [ITA-302/2016] therefore, while considering the matter, we have considered that mainly the substantive amount out of receipts of Rs.1,81,44,567/-, Rs.1,24,10,000/- is received by the assessee from State Government by way of subsidy. Even if, name of the institution i.e. Rajasthan Hindi Granth Academy is considered, it is established that it is for the purpose of publication of Hindi Granth i.e. for education. In that view of the matter, in our considered opinion, in view of decisions referred by Mr. Ranka, this is an educational institution activity."

7. The Hon'ble Delhi Bench of ITAT has held in the case of Bhartiya Siksha Samiti (ITA No. 816/Del/2015, AY2010-11) that "13. In my view the activities carried out by the assessee fall within the term 'Education'. The Revenue was wrong coming to the conclusion that, only when Assessee runs schools directly, it can be held to impart education. In my view, the Education can be imparted, even through affiliated schools also. A perusal of the activities listed above demonstrates the same. The activity of the assessee-society in my view is educational activity."

8. In case of Green Area Education Trust v. Deputy Commissioner of Income-tax, 5(2)(2), Mumbai, the Honorable Tribunal has held that "3.9 Further, it is noted in the case of Life Shines Educational & Charitable Trust (supra) Chennai Bench of the Tribunal held that "pre-schooling' shall fall within meaning and scope of the 'education' as used u/s 2(15). Thus, in view

of the aforesaid discussion and facts of this case, we do not find any justification in the view adopted by the Ld. DIT that pre- schooling is not part of education activity. In our considered view pre-schooling is very much integral part of the term 'education' as has been envisaged u/s 2(15) of the Act and we hold so.”

9. The Honorable Allahabad High Court in the case of Katra Educational Society v. ITO [1978] 111 ITR 420 (All.) has held that “The word "institution" has not been defined in the Act. There is no reason why an educational society cannot be regarded as an educational institution if that educational society is running educational institution or institutions. The Income-tax Officer has placed too narrow a construction on section 10(22) of the Act and the interpretation placed by him is manifestly erroneous.”

10. The above principle was further approved by the Honorable Supreme Court in the case of Aditanar Educational Institution vs. Addl. CIT, where the Honorable Supreme Court has held that “Counsel for the Revenue mainly stressed the plea that the exemption under section 10(22) of the Act would apply only to educational institutions as such. According to him, in this case, the assessee might be financing for running an educational institution, but it is not itself an educational institution. As noted earlier, the Tribunal held that the assessee was an institution existing for educational purposes and not for the purposes of earning any profit and the assessee itself could be termed as an "educational institution" coming within section 10(22) of the Act. The High Court has concurred with this view. The High Court has further held that the medium through which the assessee could effectuate its objects is the college and by employing this medium, the assessee imparts education and it cannot be stated that the assessee is only a financing body and does not, on the facts, come within the scope of "other educational institution" occurring in section 10(22) of the Act.”

11. In the case of Shavak Shiksha Samiti vs CIT 104 TTJ 127 (ITAT – Delhi) it was held that, **The trust's main object of imparting education came within the purview of charitable purpose and it did not exist for profits, since the surplus, if any, were not to be distributed among its members.** Therefore, the trust was entitled to registration under s.12A of the Income Tax Act 1961.

Your kind Honours are requested to allow the appeal in the public interest and oblige.”

5. On the other hand, the Id. D/R supported the order of the Id. Commissioner of Income-tax (Exemptions). The Id D/R vehemently submitted that the Council is though a Govt. Body enacted under the Act for para-medical education but they are running the Institution resulting in surplus and on commercial basis. The Council is not providing free education and also is not directly educating. The Id D/R relied upon the finding made by the CIT(E) and the case laws referred and requested to dismiss the appeal. He has also submitted the decision of the Rajasthan Nursing Council, where the coordinate bench has considered the appeal as general public utility and allowed the registration as applied, which is disputed by the Department before Hon'ble High Court, where the appeal of the Department has been admitted. In support, he placed reliance on the judgment of the Hon'ble Supreme Court in the case of Sole Trustee, Loka Shikshana Trust vs. CIT, (1975) 101 ITR 234 (SC) and decision of the Coordinate Bench of the ITAT Jaipur in the case of Rajasthan Nursing Council vs. CIT (Exemption), (2020) 119 taxmann.com 354.

6. We have heard Id. Counsels for both the parties, perused the material available on record and gone through the order of the lower authority. After hearing the rival submissions, it has been noted that the appellant has applied for the registration w.e.f FY 2019-20 under section 12A, which was rejected on the ground that the revenue earned by the Council is from commercial activities. The Council is established under an Act by the State Government for Para-medical education and to promote, develop and regulate the same for the welfare of the society and the public health, with no intent of any business. It has been noted that the surplus is not distributed and only utilized for the activities and the fees/charges are decided in consultation with the State Government at normal level looking to the welfare of the public. The Ld CIT (Exemption) in his order has mentioned that the receipts are from examination fees, registration fees, revaluation fees, inspection fees and counseling fees, which are commercial in nature whereas apparently such receipts are from the key services for education only. In this way the contents are contradictory neither it has been brought on record that they are abnormally high with an intent to earn profit on commercial lines nor the same has been established that how they are not related to education in the instant case. In view of the arguments made by the Id A/R, supra, the surplus cannot lead by itself that the activities are from trade, commerce or business. There can be a revenue surplus in particular year/s which is allowed to be applied in the next year(s) as permitted under the Act. The un-applied amount becomes the income of the assessee after the end of the time-limit. Since, the proviso to section 2(15) is, otherwise, also not applicable as the activities are not in the nature of trade, commerce or business.

6.1. In light of the above discussions and in the entirety of the facts and circumstances of the case and respectfully following the decisions referred supra, we are of the considered view that the object of the appellant Council qualified as charitable purpose and covered under Section 2(15) as applied by the appellant and given that there is no dispute on the genuineness of the activities carried on by the assessee Council in furtherance of its object, the order passed by Id. CIT (E) is hereby set aside and directed to grant the registration to the appellant Council under section 12AA as applied by them.

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

Order pronounced in the open court on 3/04/2023.

Sd/-

(राठौड़ कमलेश जयंतभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 3/04/2023.

Das/

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

1. अपीलार्थी / The Appellant- Rajasthan Para-Medical Council, Jaipur.
2. प्रत्यर्थी / The Respondent- The CIT (Exemptions), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 331/JP/2022}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar

