

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "C" BENCH

**Smt. Annapurna Gupta, Accountant Member  
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA Nos: 224 to 228/Ahd/2022**  
Asst. Years: 2012-13 to 2014-15 and  
2016-17 & 2017-18

Saurashtra Cricket Association Stadium, Opp. GETCO Sub Station, Rajkot-Jamnagar Highway, Targhari, Rajkot-360110  <b>PAN: AAAAS2360J</b> <b>(Appellant)</b>	Vs	Commissioner of Income Tax (Appeals), Ahmedabad  <b>(Respondent)</b>
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**ITA Nos: 483 & 484/Ahd/2020** A.Ys: 2011-12 & 2015-16  
**ITA Nos: 123 & 217/Ahd/2022** A.Ys: 2016-17 & 2017-18  
& **ITA No: 1055/Ahd/2023** for A.Y. 2018-19

The ACIT (Exemption) Circle-2, Ahmedabad  <b>(Appellant)</b>	Vs	Saurashtra Cricket Association Prasham, 7 <sup>th</sup> Floor, Near Dharma Cinema, Rajkot-360001  <b>PAN: AAAAS2360J</b> <b>(Respondent)</b>
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**Assessee Represented: Shri Tushar Hemani, Sr.Adv. &  
Shri Parimalsinh B. Parmar, A.R.**

**Revenue Represented: Shri Kamlesh Makwana, CIT-DR**

Date of hearing : 19-06-24 & 24-07-24  
Date of pronouncement : 30-07-2024

## **आदेश/ORDER**

### **PER BENCH**

These cross appeals are filed by the Assessee and the Revenue as against separate appellate orders of different dates passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), as against the assessment orders passed under section 143(3) rws 254 and section 143[3] of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Years 2011-12 to 2017-18. Since the common issues are involved in both the Assessee and Revenue appeals, the same are disposed of by this common order.

2. The Registry has noted that there is a delay of 20 to 27 days in filing the appeals by the assessee. The assessee submitted that the above appeals were Electronically filed on 10.05.2022 which was well within the time of limit and also produced acknowledgement copies of the E-filing challan issued by the Registry. However, hard copies of the appeal papers were filed by the assessee later, so there is no delay in filing the above appeals. Ld. Counsel for the assessee also submitted that the shortfall in payment of Tribunal fees for appeals were also paid and thus the defects point out by the Registry were fully rectified. Thus we are satisfied that there is no delay in filing the appeals by the assessee and proceed with the appeals.

3. The Grounds of Appeal raised by the Assessee in ITA No. 224/Ahd/2022 for A.Y. 2012-13 reads as follows:

1. That the Honourable CIT(A) have wrongly dismissed the appeal by the appellant without considering the power's of the Honourable CIT(A).
  2. That the Honourable CIT(A) have described the powers of the learned A. O. but silent about of powers of Honourable CIT(A) in appeal.
  3. That the Honourable CIT(A) have wrongly not considered the ground of appeal and thus the finding of the Honourable CIT(A) are illegal, bad in law and against the principle of natural justice
  4. That Honourable CIT(A) have to accept and allow the grounds of appeal as per the order of Honourable ITAT and Honourable High Court of Gujarat. The appellant entitled the claim. But the Honourable CIT(A) refused the appeal not for giving proper and legal grounds. Thus the finding of the Honourable CIT(A) is illegal and bad in law.
  5. The Honourable CIT(A) have allowed the appeals for A. Y. 2009-10 and A. Y. 2010-11 accepting the orders of Honourable High Court, Ahmedabad in case of appeal of appellant itself on the same grounds of appeal but the Honourable CIT(A) have dismissed the same in this year without giving proper adjudication, which is illegal and bad in law.
4. The Grounds of Appeal raised by the Revenue in ITA No. 483/Ahd/2020 for A.Y. 2011-12 reads as follows:

1. Whether on the facts and circumstances of the case and in law, the Id. CIT(Appeals) is correct in allowing the benefit of Section 11 and 12 when the Assessing Officer has clearly brought on record that assessee is covered under the proviso to Section 2(15) r.w.s 13(8) of the Act?
2. On the facts and circumstances of the case, the Id. CIT(Appeals) ought to have upheld the order of the Assessing Officer in denying the claim of exemptions under section 11 of the Act.
3. Whether, on the facts and in the circumstances of the case the Id. CIT(Appeals) is correct in allowing the claim of accumulation Rs.4,59,19,353/- u/s. 11(1)(a) of the Act without appreciating the findings of the AO with regard to applicability of Section 2(15) of the Act?
4. Whether, on the facts and in the circumstances of the case the Id. CIT(Appeals) is correct in allowing the claim of accumulation

Rs.21,21,00,000/- u/s. 11(2) of the Act without appreciating the findings of the AO with regard to applicability of Section 2(15) of the Act?

5. Whether on the facts and circumstances of the case and in law, Id. CIT(Appeals) is correct allowing the claim of exemptions on the expenditure incurred for acquisition of fixed assets of Rs.1,26,14,350/-, without appreciating the findings of the Assessing Officer?

6. Whether, on the facts and in the circumstances of the case the Id. CIT(Appeals) is correct in allowing the claim Rs.15,55,74,613/- being the TV Subventions income received from BCCI as corpus donations u/s. 11(l)(d) of the Act without appreciating the findings of the AO with regard to applicability of Section 2(15) of the Act?

7. Whether, on the facts and in the circumstances of the case the Id. CIT(Appeals) is correct in allowing the claim Rs.8,10,43,200/- being the IPL Subventions income received from BCCI as corpus donations u/s. 11(l)(d) of the Act without appreciating the findings of the AO with regard to applicability of Section 2(15) of the Act?

8. The Revenue craves to add, alter, amend, modify, substitute, delete and/or rescind all or any Grounds of Appeal on or before the final hearing, in necessity so arises?

5. Brief facts of the case is the assessee Saurashtra Cricket Association [SCA] is engaged in promoting the game of cricket in the State of Gujarat and registered u/s.12AA of the Act from 05-05-1989. The assessee is engaged in promoting, developing and encouraging the game of cricket within its region and do all other incidental objects associated with the main objects of the Trust. The Assessing Officer noticed that the assessee earns income out of sale of tickets, sale of space, conduct Indian Premier League [IPL] matches which is a commercial venture of BCCI, TV rights and which is mixture of Sports, entertainment and business. Thus the SCA is involved in carrying on the activity of “advancement of any other object of general public utility” and such as in the nature of trade, commerce or

business. Further as per CBDT circular No.395 dated 24-09-1984, it was held that promotion of sports and games is “advancement of objects of general public utility”. Thus the assessee is clearly covered by the provisions of Section 2[15] read with the proviso 1 & 2 of the Act and thus denied the exemption claimed u/s.11 of the Act and assessed the income to tax.

6. The assessments reached up to the Hon’ble High Court of Gujarat, wherein the Hon’ble High Court in assessee’s own case reported in (2019) 419 ITR 0561 held the activities of the assessee trust are not of commercial nature by observing as follows:

“... (i) In carrying on the charitable activities, certain surplus may ensue. However, earning of surplus, itself, should not be construed as if the assessee existed for profit. The word "profit" means that the owners of the entity have a right to withdraw the surplus for any purpose including the personal purpose.

(ii) It is not in dispute that the three Associations have not distributed any profits outside the organization. The profits, if any, are ploughed back into the very activities of promotion and development of the sport of cricket and, therefore, the assessees cannot be termed to be carrying out commercial activities in the nature of trade, commerce or business.

(iii) It is not correct to say that as the assessees received share of income from the BCCI, their activities could be said to be the activities of the BCCI. Undoubtedly, the activities of the BCCI are commercial in nature. The activities of the BCCI is in the form of exhibition of sports and earn profit out of it. However, if the Associations host any international match once in a year or two at the behest of the BCCI, then the income of the Associations from the sale of tickets etc., in such circumstances, would not portray the character of commercial nature.

(iv) The State Cricket Associations and the BCCI are distinct taxable units and must be treated as such. It would not be correct

to say that a member body can be held liable for taxation on account of the activities of the apex body.

(v) Irrespective of the nature of the activities of the BCCI (commercial or charitable), what is pertinent for the purpose of determining the nature of the activities of the assessee, is the object and the activities of the assessee and not that of the BCCI. The nature of the activities of the assessee cannot take its colour from the nature of the activities of the donor."

7. At the outset, Ld. Senior Counsel Shri Tushar Hemani submitted that the Hon'ble Supreme Court in the case of ACIT(E) vs AUDA dated 19.10.2022 in CIVIL APPEAL NO. 21762 OF 2017 reported in 449 ITR 0001 (SC) wherein at Para 253 of its judgment specifically relating to cricket/sports Associations observed as follows:

*"In view of the foregoing discussion and analysis, the following conclusions are recorded regarding the Interpretation of the changed definition of "charitable purpose" (w.e.f. 01.04.2009), as well as the later amendments, and other related provisions of the IT Act."*

.... ..

**F. Sports associations:** *So far as the state cricket associations are concerned (Saurashtra, Gujarat, Rajasthan, Baroda and Rajkot), **this Court is of the opinion that the matter requires further scrutiny.** In light of the discussion in paragraphs 228-238 of the judgment. Accordingly, **a direction is issued that the AO shall adjudicate the matter afresh after issuing notice to the concerned assessee and examining the relevant material indicated in the previous paragraphs of this judgment.** Furthermore, if any consequential order needs to be issued, the same shall be done and resulting actions, including assessment orders shall be in accordance with the law under relevant provisions of the IT Act."*

7.1. Thus Ld. Senior Counsel pleaded that the matter may be set aside back to the file of Ld. Assessing Officer for further scrutiny in the light of the discussions made in Paragraphs 228 to 238 of the Hon'ble Supreme Court Judgment.

8. Ld. CIT-DR Shri Kamlesh Makwana appearing for the Revenue has concurred the view of the Assessee Counsel and pleaded to set aside the matter back to the file of Assessing Officer to consider the issue afresh in the light of Hon'ble Supreme Court Judgment.

9. Recording the above submissions of rival parties and respectfully following Apex Court Judgement in the case of AUDA [cited supra] the orders passed by the Lower Authorities are hereby set aside to the file of Ld. Assessing Officer and direct the AO to pass fresh orders in line of the directions given by Hon'ble Supreme Court in Paragraphs 228 to 238 of the Judgment and adjudicate the matter afresh by giving proper opportunity of hearings to the assessee. Needless to say the assessee should co-operate with the AO by producing necessary details and documents to pass fresh assessment orders.

10. In the result, **the appeals filed by the Assessee and Revenue are allowed for statistical purposes.**

Order pronounced in the open court on 30-07-2024

**Sd/-**  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER True Copy**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

**Ahmedabad : Dated 30/07/2024**

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद