

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1134/Chny/2023  
निर्धारण वर्ष/Assessment Year: 2016-17

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|---|-----------|--|
| M/s. United Economic Forum,<br>No.4, Buhari Building, Moores Road,<br>Nungambakkam,<br>Chennai-600 006. | <b>v.</b> | The ITO,<br>Exemptions Ward-1,<br>Chennai. |
| [PAN: AAATU 0087 B]   |           |  |
| (अपीलार्थी/Appellant)   |           | (प्रत्यर्थी/Respondent)                    |
| अपीलार्थी की ओर से/ Appellant by  | :         | Shri S. Anandh, Advocate                   |
| प्रत्यर्थी की ओर से /Respondent by  | :         | Shri P. Sajit Kumar, JCIT                  |
| सुनवाईकीतारीख/Date of Hearing   | :         | 27.06.2024                                 |
| घोषणाकीतारीख /Date of Pronouncement   | :         | 09.08.2024                                 |

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee Forum against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 10.08.2023 for the Assessment Year (hereinafter in short "AY") 2016-17.

2. At the outset, the Ld.AR of the assessee pointed out that the assessee Trust (AOP) was enjoying registration u/s.12A(a) of the Income Tax Act, 1961 (hereinafter in short "the Act") from 16.12.1995 onwards and had filed the return of income (RoI) for AY 2016-17 on 21.12.2016



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declaring gross receipts of Rs.64,40,248/- and NIL income after claiming exemption u/s.11 of the Act. The AO noted that even though, assessee states in its objects "*to work for the general welfare of the communities, especially backward communities*" and inter alia it is into organizing conference, seminars and exhibitions for promotion of industrial economics without having any profit from such activities. And in the relevant year, the assessee Trust conducted one Trade Summit, wherein, seminar and trade fair to promote the business development of backward communities and also to assist and help them to obtain knowledge and skill to start new venture and make them accessible to financial and technical resources/ grants provided by the Government, bank and as well as the private sector. According to the AO, these activities of the trust (organize Trade Summits) cannot be viewed as charitable activity as the same does not contain any charity element in it. Therefore, the assessee was asked to substantiate how the conducting of conferences fall under the charitable purpose, and why the amended provisions of section 2(15) should not be invoked in the assessee's case. The assessee trust vide its letter dated 24/12/2018 replied as under:

"The activity carried down by the society is purely in the nature of Charitable Activity and in accordance with the provisions and conditions as laid down u/s 2(15) of the Income Tax Act, 1961.

The assessee's aim is to work for general welfare of backward community through educational support, entrepreneurship, business opportunity etc. The assessee brings the development of backward communities, in the form of imparting knowledge and skills to start



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new ventures, make them accessible to financial and technical resources, grants provided by Government, Banks/Private sectors etc.

Further imparting of knowledge through Seminars and Trade Fairs enables less fortunate obtain the much needed skills for economic growth and improvement, which are in line with objectives, contained in clause g of Memorandum of Association of the assessee, which states as under:

"To organize conferences, seminars and exhibitions in promotion of Industrial Economics without involving in profitable activities".

**3.** However, the AO disagreed with the assessee that its activity of organizing conferences, etc., was a charitable activity. Since, according to him, activities of the Trust are not covered under education, relief to the poor, medical relief/preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest. Therefore, according to the AO, the activities have to be examined as to whether it can be said that they fall within the ambit of 'advancement of any other general public utility' and according to the AO, activities fall within the ambit of 'advancement of any other General Public Utility' [GPU]; and noted from perusal of the income and expenditure account of the assessee that major receipts were from its activities are from sponsorship fees of Rs.92,05,000/- which assessee received from outside organization for conducting the Trade Summits from various companies for conducting trade summits which according to him was akin to receipt for rendering services which were in the nature of trade, business & commerce or for providing services in relation to trade business or commerce. The AO also



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noted that assessee received delegate fees of Rs.20,43,300/- as registration fee from persons representing from various companies for the services rendered for trade business and commerce; and the assessee received donation of Rs.78,00,882/- which assessee received as donation from various persons for conducting the Trade Summits and not for any charitable activities. So, according to the AO, the aforesaid receipts were received by assessee for the services rendered by it to them and were in the nature of trade, business & commerce or providing services in relation to any trade, business & commerce. Therefore, according to the AO, the receipts of the Trust was commercial receipts or fees in the nature of first proviso to clause (15) of sec.2 of the Act and hence, Section 11 will not operate in the assessee's case and the taxable income of the assessee was determined in a commercial sense. And he computed the excess of income over expenditure as taxable income as Rs.35,99,923/-.

**4.** Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) who confirmed the action of the AO by holding as under:

4.7 participants for participation in trade summit and charging of sponsorship fees, conducting seminars would not ipso facto lead to denial of exemption. But in my opinion, in the instant case the dominant object of the assessee does not remain charitable being upliftment of backward classes and other objects of the trust, and the aforesaid activities (Organising trade summit) of the trust not benefiting the backward classes at large. The assessee did not do any activity largely or exclusively for backward classes as mentioned in the objects of the trust. In view of the above, the case of the department that amendment in section 2(15) w.e.f. 1.4.2009 had taken place to take the assessee outside the ambit of section 2(15) is justified. The effect of the amendment has been discussed elaborately by the Honorable Delhi High Court in ITPO Case as well as the judgment of



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Apex Court in Andhra Pradesh Chamber of Commerce and the test of dominant object has not been altered even after the said amendment. The appellant's activities during the relevant year does not show that his objects are dominating its activities and therefore it is held that the denial of exemption under section 11 in the case of the assessee is in accordance with law.

**5.** Aggrieved, the assessee is in appeal before this Tribunal.

**6.** We have heard both the parties and perused the material available on record. The facts stated supra are not repeated to avoid repetition and for the sake of brevity. The assessee Trust was enjoying registration u/s.12A of the Act from 1995 onwards. On perusal of the income and expenditure account of the assessee placed at Page No.6 of the paper book reveals that the assessee has given scholarship assistance of Rs.3,81,500/- and had gross receipts of Rs.64,40,248/- and excess of income over expenditure of Rs.35,99,923/-. The assessee had claimed accumulation u/s.11(2) of the Act to the tune of Rs.35 lakhs which was denied by the AO for two reasons. (i) for belatedly filing the return of income as well as Form 10 (ii) and the activities of the assessee would fall under the last limb of sec.2(15) of the Act i.e. advancement of objects of GPU and therefore, according to the AO, the proviso therein would apply to the case of the assessee and since, the receipts from the said activity exceeded the prescribed limit, the assessee would lose benefit of exemption u/s.11 of the Act (20% of the total receipts w.e.f. 01.04.2016). Therefore, the AO added the excess income over expenditure as taxable income and brought to tax Rs.35,99,923/- which



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has been confirmed by the Ld.CIT(A). According to the Ld.AR, for upliftment of backward communities and to enhance education of these persons, every Year the assessee offers scholarships to students from backward community and with a view to help /assist the young entrepreneur from backward communities, the assessee has entered into a Memorandum of Understanding (MoU) with Indian Overseas Bank for sanction of term loan and working capital assistance once the project is found to be technically feasible and financially viable; In pursuance of the aforesaid objection, in the relevant year, the assessee organized one conference, and exhibition in promotion of Industrial economies without any profit element involved in such activity. This Trade Summit was conducted during November, 2015 to connect industrialists, bankers, technologists with budding entrepreneurs/future entrepreneurs from the backward community. And nominal cost was fixed as a delegate fee to ward off non-serious people. Sponsorships were collected to partially meet the cost of conducting the Trade Summit. Many people/concern came forward to support the initiative of the assessee by extending donations for the conduct of this Trade Summit. And that the assessee had prepared separate income and expenditure account to track the income and expenditure related to the Trade Summit. According to the Ld.AR in that account the assessee had included the donations received for conducting the trade summit and reported that there was a surplus of



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Rs.39,25,139/- from conducting the Trade Summit. Copy of that Income and Expenditure Account for the Trade Summit found placed at Page No.5 of the Paper Book. This figure of Rs.39,25,139/- was taken to the assessee regular income and expenditure account and copy of the Income and Expenditure Account of the assessee is found placed at Page No.6 of Paper Book. Further, the Ld.AR submitted that the activity of conducting Trade Summit was purely to bring together the top industrialists, bankers, technologists, and the entrepreneurs/future entrepreneurs for supporting/assisting the budding entrepreneur of backward communities and encourage them to compete with others. According to the Ld.AR, the amount of delegate fee and the sponsorships collected, when compared with the amounts spent for conducting the Trade Summit is much less amount that the deficit was made up through donations from various people/concerns. According to the Ld.AR, if the donation is not considered, the economic result of the Trade Summit in the hands of the assessee would be a deficit. According to the Ld.AR, the AO/Ld.CIT(A) has not considered this important aspect and that the AO has erred in giving a finding that the donation received is for service rendered by the assessee, which is a figment of imagination and is not legally sustainable. Notice u/s.142(1) dated 14/05/2018 issued by the AO calling for details found placed at Page No.8 & 10 of Paper Book, he asserted that there was no enquiry about the donation received by the assessee for the Trade



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Summit. And he asserted the assessment order on the ground that it is completely silent on the basis of the conclusion that the donations received by the assessee were for the services rendered by the assessee.

**7.** In the light of the aforesaid contentions, according to the Ld.AR, the AO has not examined properly the activities of the assessee and since, there was a confusion at the time of assessment order (regarding the interpretation of law after the changed definition of "charitable purpose" (w.e.f. 01.04.2009) as well as the later amendments and other related provisions of the Income Tax Act, 1961), and undisputedly, the AO/Ld.CIT(A) didn't had the advantage of the Hon'ble Supreme Court decision law in the case of ACIT v. Allahabad Urban Development Authority reported in [2022] 449 ITR 1 (SC), wherein, the Hon'ble Supreme Court has explained the concept of General Public Utility (GPU) charity and held that trade promotion body councils associations or organizations are clearly GPU charities and would be subjected to proviso to Sec.2(15) of the Act. The summary of conclusion has been given by the Hon'ble Apex Court in this case (supra) which is reproduced as under:

#### IV. Summation of conclusions

253. 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. 1-4-2009), as well as the later amendments, and other related provisions of the IT Act.

##### A. General test under section 2(15)

A.1. It is clarified that an assessee advancing general public utility cannot engage itself in any trade, commerce or business, or provide



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service in relation thereto for any consideration ("cess, or fee, or any other consideration");

A.2. However, in the course of achieving the object of general public utility, the concerned trust, society, or other such organization, can carry on trade, commerce or business or provide services in relation thereto for consideration, provided that (i) the activities of trade, commerce or business are connected ("actual carrying out..." inserted w.e.f. 1-4-2016) to the achievement of its objects of GPU; and (ii) the receipt from such business or commercial activity or service in relation thereto, does not exceed the quantified limit, as amended over the years (Rs. 10 lakhs w.e.f. 1-4- 2009; then Rs. 25 lakhs w.e.f. 1-4-2012; and now 20% of total receipts of the previous year, w.e.f. 1-4-2016);

A.3. Generally, the charging of any amount towards consideration for such an activity (advancing general public utility), which is on cost-basis or nominally above cost, cannot be considered to be "trade, commerce, or business" or any services in relation thereto. It is only when the charges are markedly or significantly above the cost incurred by the assessee in question, that they would fall within the mischief of "cess, or fee, or any other consideration" towards "trade, commerce or business". In this regard, the Court has clarified through illustrations what kind of services or goods provided on cost or nominal basis would normally be excluded from the mischief of trade, commerce, or business, in the body of the judgment.

A.4. Section 11(4A) must be interpreted harmoniously with section 2(15), with which there is no conflict. Carrying out activity in the nature of trade, commerce or business, or service in relation to such activities, should be conducted in the course of achieving the GPU object, and the income, profit or surplus or gains must, therefore, be incidental. The requirement in section 11(4A) of maintaining separate books of account is also in line with the necessity of demonstrating that the quantitative limit prescribed in the proviso to section 2(15), has not been breached. Similarly, the insertion of section 13(8), seventeenth proviso to section 10(23C) and third proviso to section 143(3) (all w.r.e.f. 1-4-2009), reaffirm this interpretation and bring uniformity across the statutory provisions.

B. Authorities, corporations, or bodies established by statute

B.1. The amounts or any money whatsoever charged by a statutory corporation, board or any other body set up by the state government or central governments, for achieving what are essentially 'public functions/services' (such as housing, industrial development, supply of water, sewage management, supply of food grain, development and town planning, etc.) may resemble trade, commercial, or business activities. However, since their objects are essential for advancement of public purposes/functions (and are accordingly restrained by way of statutory provisions), such receipts are prima facie to be excluded from the mischief of business or commercial receipts. This is in line



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with the larger bench judgments of this court in Ramtanu Cooperative Housing Society and NDMC (supra).

B.2. However, at the same time, in every case, the assessing authorities would have to apply their minds and scrutinize the records, to determine if, and to what extent, the consideration or amounts charged are significantly higher than the cost and a nominal mark-up. If such is the case, then the receipts would indicate that the activities are in fact in the nature of "trade, commerce or business" and as a result, would have to comply with the quantified limit (as amended from time to time) in the proviso to section 2(15) of the IT Act.

B.3. In clause (b) of section 10(46) of the IT Act, "commercial" has the same meaning as "trade, commerce, business" in section 2(15) of the IT Act. Therefore, sums charged by such notified body, authority, Board, Trust or Commission (by whatever name called) will require similar consideration - i.e., whether it is at cost with a nominal mark-up or significantly higher, to determine if it falls within the mischief of "commercial activity". However, in the case of such notified bodies, there is no quantified limit in section 10(46). Therefore, the Central Government would have to decide on a case-by-case basis whether and to what extent, exemption can be awarded to bodies that are notified under section 10(46).

B.4. For the period 1-4-2003 to 1-4-2011, a statutory corporation could claim the benefit of section 2(15) having regard to the judgment of this Court in the Gujarat Maritime Board case (supra). Likewise, the denial of benefit under section 10(46) after 1-4-2011 does not preclude a statutory corporation, board, or whatever such body may be called, from claiming that it is set up for a charitable purpose and seeking exemption under section 10(23C) or other provisions of the Act.

### C. Statutory regulators

C.1. The income and receipts of statutory regulatory bodies which are for instance, tasked with exclusive duties of prescribing curriculum, disciplining professionals and prescribing standards of professional conduct, are prima facie not business or commercial receipts. However, this is subject to the caveat that if the assessing authorities discern that certain kinds of activities carried out by such regulatory body involved charging of fees that are significantly higher than the cost incurred (with a nominal mark-up) or providing other facilities or services such as admission forms, coaching classes, registration processing fees, etc., at markedly higher prices, those would constitute commercial or business receipts. In that event, the overall quantitative limit prescribed in the proviso to section 2(15) (as amended from time to time) has to be complied with, if the regulatory body is to be considered as one with 'charitable purpose' eligible for exemption under the IT Act.

C.2. Like statutory authorities which regulate professions, statutory bodies which certify products (such as seeds) based on standards for



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qualification, etc. will also be treated similarly. D. Trade promotion bodies Bodies involved in trade promotion (such as AEPC), or set up with the objects of purely advocating for, coordinating and assisting trading organisations, can be said to be involved in advancement of objects of general public utility. However, if such organisations provide additional services such as courses meant to skill personnel, providing private rental spaces in fairs or trade shows, consulting services, etc. then income or receipts from such activities, would be business or commercial in nature. In that event, the claim for tax exemption would have to be again subjected to the rigors of the proviso to section 2(15) of the IT Act.

#### E. Non-statutory bodies

E.1. In the present batch of cases, non-statutory bodies performing public functions, such as ERNET and NIXI are engaged in important public purposes. The materials on record show that fees or consideration charged by them for the purposes provided are nominal. In the circumstances, it is held that the said two assesseees are driven by charitable purposes. However, the claims of such non-statutory organisations performing public functions, will have to be ascertained on a yearly basis, and the tax authorities must discern from the records, whether the fees charged are nominally above the cost, or have been increased to much higher levels.

E.2. It is held that though GS1 India is in fact, involved in advancement of general public utility, its services are for the benefit of trade and business, from which they receive significantly high receipts. In the circumstances, its claim for exemption cannot succeed having regard to amended section 2(15). However, the Court does not rule out any future claim made and being independently assessed, if GS1 is able to satisfy that what it provides to its customers is charged on cost-basis with at the most, a nominal markup.

#### 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 assesseees 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 passed in accordance with the law under relevant provisions of the IT Act.

#### G. Private Trusts

So far as the appeal by assessee-Tribune Trust is concerned, it has been held that despite advancing general public utility, the Trust cannot benefit from exemption offered to entities covered by section 2(15) as the records reveal that income received from advertisements,



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constituted business or commercial receipts. Consequently, the limit prescribed in the proviso to section 2(15) has to be adhered to for the Trust's claim of being as a charity eligible for exemption, to succeed. Therefore, despite differing reasoning, this court has held that the impugned judgment of the High Court does not call for interference.

#### H. Application of interpretation

H. At the cost of repetition, it may be noted that the conclusions arrived at by way of this judgment, neither precludes any of the assesseees (whether statutory, or nonstatutory) advancing objects of general public utility, from claiming exemption, nor the taxing authorities from denying exemption, in the future, if the receipts of the relevant year exceed the quantitative limit. The assessing authorities must on a yearly basis, scrutinize the record to discern whether the nature of the assessee's activities amount to "trade, commerce or business" based on its receipts and income (i.e., whether the amounts charged are on cost basis, or significantly higher). If it is found that they are in the nature of "trade, commerce or business", then it must be examined whether the quantified limit (as amended from time to time) in proviso to section 2(15), has been breached, thus disentitling them to exemption.

**8.** According to the assessee, it offers scholarships to students from backward communities and had entered into Memorandum of Understanding (MoU) with IOB for sanctioning of term loan and working capital assistance for financial assistance for the backward community. According to the assessee, the objective of the assessee to organize conferences, seminars & exhibitions are with a view to promote entrepreneurs from the backward community and according to the Ld.AR, the conference organized does not involve any profit and in fact, there was deficit which was compensated through donations of Rs.78,00,882/- from various companies. According to the Ld.AR, if the donations are not considered the economic result of the Trade Summits in the hands of the assessee would be deficit. Be that as it may, since the law has been laid down by the Hon'ble Supreme Court in the recent judgment in the case of



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M/s. United Economic Forum

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CIT v. Allahabad Urban Development Authority (supra), we are of the view that de novo assessment is warranted in this case; and therefore, we set aside the impugned order of the Ld.CIT(A) and restore the assessment back to the file of the AO and direct the AO to de novo re-consider the assessee's contentions in the light of the ratio laid by the Hon'ble Supreme Court in the case of Allahabad Urban Development Authority (supra) after hearing the assessee and pass a speaking order.

9. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 09<sup>th</sup> day of August, 2024, in Chennai.

**Sd/-**  
(मनोज कुमार अग्रवाल)  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**  
(एबी टी. वर्की)  
**(ABY T. VARKEY)**  
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,  
दिनांक/Dated: 09<sup>th</sup> August, 2024.  
**TLN, Sr.PS**

आदेश की प्रतिलिपि अग्रेषित /**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF