

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'A': NEW DELHI)**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER  
AND  
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

**ITA No:- 2081/Del/2024  
(Assessment Years- 2016-17)**

Income Tax Officer, Civic Centre, New Delhi.	Vs.	Association of Corporation and Apex Societies of Handloom, Janpath, New Delhi.
<b>PAN No: AAATA0822C</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue by** : Shri Javed Akhtar, CIT(DR)  
**Assessee by** : Shri KVS Krishnan, Adv.

**Date of Hearing** : 27.11.2024  
**Date of Pronouncement** : 27.11.2024

**ORDER**

**PER PRADIP KUMAR KEDIA, AM**

The captioned appeal has been filed by the Revenue against the order passed by the National Faceless Appeal Centre (NFAC), Delhi, ["CIT(A)", for short] dated 20.02.2024 arising from the Assessment Order passed by the Assessing Officer under Section

143(3) of the Income Tax Act, 1961, (“the Act”, for short) dated 25.12.2018 concerning Assessment Year 2016-17.

1.1 The grounds raised by the Revenue read as under:

*“a) On the facts and in the circumstances of the case and in law, the Ld CIT(A) has erred in allowing the appeal of the assessee by ignoring the fact that even though the objects of the society may have been charitable but the activities carried out by the society which yielded income to the society were commercial in nature. b) On the facts and in circumstances of the case and in law, the Ld. CIT(A) has erred in ignoring that the assessee's activity falls under the category of Advancement of any other object of General Public Utility and first proviso to Section 2(15) is clearly applicable to it as the total receipts derived by way of Subscription, Administrative charges on STS, Administrative charges on exhibition etc. are to be treated as receipts of commercial nature since it exceeds 20% of total receipts. c) The appellant craves leave to add, to alter or amend any grounds of appeal raise above at the time of hearing.”*

2. The CIT(A) has dealt with the issue as under:

***“5. Decision***

*I have carefully considered the facts of the case, the Assessment order, written submission of the appellant and materials on records. Also, the judgments and decision of High courts, tribunals and various judicial authorities relied on by the appellant have been carefully gone through. The facts of the case as perused from the order of the assessing officer is that the AO on examination of the activities of the Trust, found that during the assessment year 2016-17, the appellant Trust has earned income from Subscription, Interest, Administrative charges on STS, Misc. Income and administrative charges on exhibition, which appear to be commercial in nature and considered the same as business activities and since the receipts under the heads 'Subscription and administrative charges on STS being more than 20% of the gross receipts, the proviso to Section 2(15) is applicable and accordingly disallowed the exemption u/s 11 & amp; 12. Aggrieved by this appellant Trust preferred this appeal.*

*5.2 Grounds of appeal Nos. 1 to 6 are related to each other and tantamount to only one substantial ground challenging the denial of exemption u/s 11 these grounds being interlinked are adjudicated together:*

*The Assessing Officer denied exemption of income u/s 11 & 12 in view of the amendment made to proviso to Section 2(15) w.e.f. AY 2016-17. It has been held that activities of the appellant Trust is neither in the field of education nor in the field of medical relief or relief of poor and its activities are falling within the scope of 'the advancement of any other object of general public utility As per the amendment made in the scope of proviso to Section 2(15), the said proviso now reads as under- "Provided that the 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 service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature or use of application, or retention, of the income from such activity and the aggregate receipts from such activity or activities during the previous year, do not exceed 20% of the total receipts of the trust. In view of the above the appellant Trust fails to qualify as an organization for charitable purpose. The appellant on the other hand has contended that the society is established with the object of charitable nature. It is for the benefit of the handloom weavers / handloom societies as it is an Apex Body constituted by the Govt. of India to co-ordinate and diffuse useful knowledge for marketing and promoting handloom products manufactured by handloom weavers and handloom Societies. The object of the society is to provide and arrange facilities in dissemination of useful knowledge. exchange of ideas, view and information on subject of common interest to handloom association etc. It procures orders from various Departments of Government of India for supply of handloom items, which is distributed for production and supply to various member societies. The appellant Trust also organized exhibitions in different parts of the country for display and sale of handloom fabrics / clothes manufactured by the handloom weaver and member societies. The appellant Trust submitted that all the incomes, earnings and movable immovable properties of the Association are solely utilized and applied toward the promotion of its aims and objective of promoting handlooms in India.*

*I have considered the submission of the appellant. The assessee society has been registered u/s 12A dated 11/03/1992. The Members of the Association are representatives of Govt of India, Development Commissioner (Handlooms), Ministry of Textiles. It organizes exhibitions to provide a platform to weavers across the country. The appellant Trust cannot be said to be involved in carrying on any business, trade or commerce. There is no service being rendered by the appellant in the nature of trade, commerce or business. The objective is promotion of Handloom sector, for and on behalf of Govt. of India. The administrative charges, the membership fees, Subscription and the amount sanctioned by the office of Development Commissioner for organizing the Exhibitions are the only sources of income other than Bank interest. These income cannot be by any stretch of imagination be covered within the terms of trade, business or commerce or rendering services in relation to such activity which the appellant is carrying on for and on behalf of the Govt. of India.*

*In the case of the appellant Trust, exemption has been allowed by the order of Id. CIT(A) for assessment years 2010-11, 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16 on similar facts. The order for A.Y 2010-11 has been confirmed by the ITAT irt Order no ITA No.4788/Del/2016, dated 27.03.2019. The Ld. ITAT has held as under:*

*"The activity of the assessee are of advancement of any other object of the general public utility, which falls under the definition of the charitable purpose as defined under the section 2(15) of the act. But the contention of the assessing officer is that the said object of general public utility shall not be charitable because the assessee is engaged in the activity in the nature of trade, commerce or business or rendering any service in relation to any trade, commerce and business for cess or fee. We find that activity of the assessee are primarily motivated with the objective of promoting handloom sector in India and said activity are not for gain or profit of an individual The executive committee of the Society also consist of all government officials with no motive of profit sharing or personal interest. The member subscription is received by the assessee in proportion of the supply by the agency and the rate decided. The said subscription fee received cannot be equated with the cess or fee*

*against services rendered. We are of the view that the Assessing Officer has not appreciated the activities and objective of the society properly and therefore he is not justified in holding that provision to section 2(15) will be attracted in the case of the assessee. In our opinion, the finding of the Ld. CIT(A) on the issue in dispute is well reasoned, and we do not find any error in the same. Accordingly we uphold the same."*

*The facts of the case for the assessment year under consideration is same as above. No new facts have been brought on record by the Assessing Officer. Since the facts of the case are same respectfully following the orders of the Ld. ITAT it is held that the appellant Trust cannot be said to be involved in carrying on any business, trade or commerce and the Assessing Officer is directed to allow the benefit of Section 11 with consequential benefits. Grounds of appeal Nos. 1 to 6 are allowed."*

3. When the matter was called for hearing, the Ld. Counsel for the assessee pointed out that the issue raised in the present appeal by the Revenue has already been adjudicated by the Tribunal in the preceding assessment years in ITA Nos. 4788/Del/2016, 2086/Del/2017, 2087/Del/2017, 6457/Del/2017 and 646/Del/2018 orders dated 27.03.2019, 04.07.2019, 06.03.2020, 22.02.2021 and 10.11.2021.

3.1 The CIT(A) has simply followed the binding decision of the Tribunal in similar facts, and therefore, no interference with the order of the CIT(A) is called for.

4. On perusal of the case records and the submissions made on behalf of the assessee, we observe that in earlier years, on similar facts, the Coordinate Bench of ITAT has held in favour of the assessee and has allowed the claim of benefit under Section 11 of the Act. The ITAT has also held that the activities of the assessee are not in the nature of any business, trade or commerce and is therefore not hit by Proviso to section 2(15) of the Act.

5. The CIT(A) has merely applied the ratio of the decision rendered by the ITAT in assessment years. In the absence of any variation in facts pointed out on behalf of the Revenue, we see no reason to deviate from the view already taken on the subject matter of dispute. Hence, appeal of the Revenue is dismissed.

6. In the result, appeal of the Revenue is dismissed.

**Order pronounced in the open Court on 27/11/2024.**

Sd/-

**[SUDHIR KUMAR]**

**JUDICIAL MEMBER**

Sd/-

**[PRADIP KUMAR KEDIA]**

**ACCOUNTANT MEMBER**

DATED: **27/11/2023**

*POOJA*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

Assistant Registrar

		Date
1.	Draft dictated on	27.11.24
2.	Draft placed before author	27.11.24
3.	Draft proposed & placed before the second member	
4.	Draft discussed/approved by Second Member.	
5.	Approved Draft comes to the Sr.PS/PS	
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11.	Date on which file goes to the Head Clerk.	
12.	Date of dispatch of Order.	