

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

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:197/Chny/2025

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| Matha Medical Centre Trust, Moonkivilai, Kalpadi Post, Kalkulam Taluk, Kanyakumari District – 629 204. | vs. | CIT (Exemption), Chennai. |
| [PAN: AAATM-2246-C] (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

अपीलार्थी की ओर से/Appellant by : Shri. Y. Sridhar, F.C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri. R. Clement Ramesh Kumar, C.I.T.

सुनवाई की तारीख/Date of Hearing : 15.04.2025
घोषणा की तारीख/Date of Pronouncement : 14.05.2025

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Exemption), Chennai, for the assessment year 2017-18, vide order dated 28.11.2024.

2. The assessee has raised the following grounds of appeal:-

1. *Brief fact of the case is that the appellant-trust was established in the year 1996 for the purpose of carrying out charitable activities, viz, relief of the poor, education and medical relief and obtained an approval u/s 12A in April 2022 valid until AY 2026-27. The appellant-trust had filed an application in August 2024 in Form 10AB seeking approval u/s 80G. The Id. CIT (Exemption) has, however, rejected the application contending that "any activity of rendering any service, for a fee, irrespective of the nature of use and the aggregate receipts from such activity during the previous year, exceeds twenty per cent*

of the total receipts, then the activity should not be treated as charity". Hence, the present appeal.

2. *The Id. CIT (Exemption) has failed to appreciate that the appellant trust was formed only to provide medical relief, hence, it falls under 1st six limbs of the Section 2(15) of IT Act 1961 and falls under "per se category".*
3. *The CIT (E) has failed to appreciate the Department Circular No.11 of CBDT dated 19/12/2016 which is categorically observed that in Para 3.1 and Para 3 .2, which clearly says that the newly inserted proviso Sec. 2(15) "it applied to the entity who pursue the advancement of any other public utility and not to that 1st 6 limbs of Section 2(15) ".*
4. *The Id.CIT(E) has also failed to appreciate that the appellant trust does not fall under the General Public Utility but clearly falls under the 1st 6 limbs of Section 2(15), hence the ratio of 20% is not applicable.*
5. *From the foregoing submission, the appellant-trust submits that the activity of rendering medical services to patients who make minimal / subsidized payment towards lab and consultancy charges shall be considered as an incidental activity and not as an activity of "advancement of any other object of general public utility" and prays for reconsideration of application filed in Form No. 10AB for 80G approval and render justice.*
6. *The appellant craves leave to amend, alter, add or delete any of the above grounds of appeal.*

3. The brief facts of the case are that the assessee is a trust established in the year 1996 for the purpose of carrying out the charitable activities namely Relief of the poor, Education and Medical relief. The assessee had obtained approval u/s.12A of the Act in April 2022 which is valid up to A.Y. 2026-27. The assessee trust also filed an application in August, 2024 in Form 10AB seeking an approval u/s.80G of the Act. The Id.CIT (E) has rejected the application by passing an order dated 28.11.2024 stating that the assessee has carried on a commercial activity by running a hospital by collecting fees from patients for medical services provided apart from having pharmacy sales. Further, the Id.CIT(E) contended that an activity of running any service, for a fee, irrespective

of the nature of use having aggregate receipts from such activity during the previous year, exceeds twenty percent of the total receipts, then, the activity should not be treated as charity. Aggrieved by the order of the CIT(Exemption), the assessee is before us.

4. The Id.AR for the assessee submitted that the assessee trust was formed in the year 1996 with its main object to serve the people of rural areas in and around Kanyakumari District by providing medical facilities either free or at concessional charges / fees. Further, the Id.AR argued that the assessee trust was formed only to provide medical relief and hence, it falls under the first six limbs of the Section 2(15) of the Act and falls under *Per se* category. Further, the Id.AR submitted that the Id.CIT(E) erred in considering the main object of providing medical services of the trust as commercial activity to apply the proviso to Section 2(15) of the Act. Since, the said proviso is applicable only to the activities of “advancement of any other object of general public utility” shall not be a charitable purpose if it involves the carrying of any activity in the nature of trade, commerce or business but, not for the “medical relief”. For the above proposition the Id.AR drew our attention to para 3 of the Circular No.11/2008 dated 19.12.2008 (Page Nos.105 to 108 of paper book), which reads as under:

“3. The newly inserted proviso to section 2(15) will apply only to entities whose purpose is ‘advancement of any other object of general public utility’ i.e. the fourth limb of the definition of ‘charitable purpose’ contained in section 2(15). Hence, such entities will not be eligible for exemption under section 11 or under section 10(23C) of the Act if they carry on commercial activities. Whether such an entity is carrying on an activity in the nature of trade, commerce or business is a question of fact which will be decided based on the nature, scope, extent and frequency of the activity.”

5. Further, the Id.AR drew out attention to the audited financials as on 31.03.2021, 31.03.2022 and 31.03.2023 (Page Nos.93 to 104 of the paper book)

wherein the expenditure of the assessee was mainly on medical relief and services provided which includes payments made to the Doctors for running hospital. The Id.AR also filed a comparative chart of service fees collected from the patients for various medical treatments and also for lab charges comparing with the charges collected in other hospitals' in the same town, which clearly demonstrates the concessional fees varying from 100% to 300% (Page Nos.85 to 92 of the paper book).

6. In support of the assessee's case, the Id.AR relied on the decision of this Tribunal in the case of *Idhayangal Charitable Trust Vs. The CIT (Exemption), Chennai in ITA No.2706/Chny/2024*, wherein, the Tribunal has observed that the diabetic clinic run by the trust is not a commercial activity. The relevant paragraph of the order is extracted below:

“ 14. The CIT(E) in para no. 3 to 3.3 of the impugned order wrongly arrived at a conclusion that that the assessee trust is running a diabetic clinic on commercial basis as such it is hit by the provisions of section 2(15) of the Income Tax Act. It is clear from the above circular 11 of 2008 and judicial pronouncements that proviso to section 2(15) is applicable only for entities whose purpose is 'advancement of any other object of general public utility and not applicable to the first three limbs of section 2(15) of the Act. Further, the assessee trust is primarily using the MDTC for testing of poor children and using only the spare capacity for outsiders at nominal prices.”

7. In the light of the above, the Id.AR submitted that the activities carried out by the assessee in the rural areas by providing medical facilities at a concessional rate is a charitable activity which falls directly under “medical relief” u/s.2(15) of the Act and hence, prayed for setting aside the order of Id.CIT(E) and grant approval under Section 80G of the Act.

8. Per contra, the Ld.CIT- DR has relied on the order of the Id.CIT (Exemption) and prayed for confirming the same.

9. We have heard the rival contentions and gone through the materials available on record and orders of the authorities below. It is an undisputed fact that the assessee is existing from 1996 and carrying on the activities of medical relief to the poor at rural areas of Kanyakumari district which had obtained registration under Section 12A of the Act valid up to Assessment Year 2026-27. Meanwhile, the assessee trust had filed an application for approval u/s.80G(5) of the Act, which was rejected by the Id.CIT (E) stating that the activity of the Trust falls under “commercial” in nature and hence, cannot be treated as “charitable” in nature. We note that the assessee has provided medical facilities and lab testing facility to the people residing in rural areas apart from pharmacy stores. On perusal of comparative fees chart provided by the Id.AR, we find that the medical charges and lab charges collected from the patients are very minimal compared to the charges collected by other hospitals. Further, we also note that the Id. CIT(E) has not doubted the activity carried out by the assessee by providing any other evidence. We find that decision of this Tribunal in the case of *Idhayangal Charitable Trust Vs. The CIT (Exemption), Chennai in ITA No.2706/Chny/2024 dated 18.02.2025(Supra)* has observed that the medical facilities provided at nominal prices to the patients at rural areas is eligible to be a charitable activity for considering it as medical relief as per section 2(15) of the Act.

10. In the present facts and circumstances of the case and also respectfully following the decision of the Tribunal, we are of the considered view that the Id. CIT (E) has erred in rejecting the application for approval under Section 80G (5) of the Act by stating that the activity of the trust is commercial in nature. Hence, in our opinion the activities carried out by the assessee is in the

nature of charity u/s.2 (15) of the Act falls under 'medical relief'. Thus, we set aside the order of Id. CIT(E) by directing to grant approval u/s.80G of the Act.

11. In the result, appeal filed by the assessee trust is allowed.

Order pronounced in the open court on 14th May, 2025 at Chennai.

Sd/-
(मनु कुमार गिरि)
(MANU KUMAR GIRI)
न्यायिक सदस्य/**Judicial Member**

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 14th May, 2025

SP

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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