

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA 'DB' BENCH AT KOLKATA**

[Virtual Court]

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No.: 14/PAT/2018
Assessment Year: 2014-15**

Society for Advancement of Village Economy (Appellant)	Vs.	ACIT(Exemption), Circle- Patna (Respondent)
PAN: AAJTS1557R		

Appearances:

Assessee represented by : Dipak Kumar, CA.

Department represented by : Md. Shadab Ahmed, CIR(DR).

Date of concluding the hearing : 14-October-2025

Date of pronouncing the order : 09-December-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-I, Patna [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250(6) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2014-15 dated 24.11.2017.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. FOR THAT Ld. CIT(A) erred in law and on the facts in confirming action of A.O. in holding that the appellant trust carried on activity in the nature of business and profession under the guise of Trust Act, 1882. Ld. CIT (A) ought to have held that the appellant trust registered u/s. 12AA of the Act working in the area of education and relief to poor carried on activities of charitable purpose and not any business or profession.

2. FOR THAT Ld. CIT(A) erred in law and on the facts in confirming action of AO assessing income of the appellant Trust at Rs 1,79,64,179/- by invoking



proviso to section 2(15) of the Act denying of exemption u/s 11 of the Act. Both the lower authorities erred in not appreciating submissions that the appellant trust being registered u/s 12AA of the Act as a public charitable trust, the exemption u/s 11 cannot be denied. The order of Ld. CIT (A) being unjust and against principles of Natural Justice deserves to be quashed.

3. FOR THAT Ld. CIT (A) erred in law and on facts in confirming action of AO in holding the activities of the appellant trust as 'advancement of any other object of general public utility not granting benefit of section 11 & 12 of the Act. Ld. CIT (A) ought to have held appellant eligible for exemption u/s. 11 of the Act. It be so held now.

4. FOR THAT Ld. CIT (A) erred in law and on facts in confirming action of AO refusing to grant exemption u/s.11 and assessing income of the appellant u/s 28 to 44 of the Act. Both the lower authorities failed to appreciate that proviso to section 2(15) was not applicable to the appellant and further provisions of Section 13(8) were also not applicable. It be so held now by granting exemption u/s. 11 of the Act as claimed.

5. FOR THAT Ld. CIT (A) erred in law and on facts in not appreciating the fact that the appellant was not engaged in any commercial/business activity but was carrying out charitable activity in accordance with its objects for which Registration u/s 12AA of the Act was granted to the appellant trust.

6. Your petitioner craves leave to amend, modify and for alter grounds and for to adduce and rely upon such further evidences and/or documents as may be required at any time before and during the time of hearing.”

3. Brief facts of the case are that the return of income of the assessee Trust was filed showing 'NIL' income on 28.06.2015 which was selected for limited scrutiny under Computer Assisted Scrutiny Selection (in short 'CASS'). Statutory notices u/s 143(2) and 142(1) of the Act were issued and duly served upon the assessee. The assessee Trust derives income from the activities of financial inclusion and for the year under consideration, was registered u/s 12AA of the Act vide registration no. 201/2011-12 dated 21.02.2012 by the CIT-I, Patna. During the course of the assessment proceeding, the details and books of account and vouchers were examined and the limited scrutiny was converted to complete scrutiny with the approval of the competent authority as per the CBDT Instruction No. 5/2016 dated 14.07.2016. The Assessing



Officer (hereinafter referred to as Ld. 'AO') examined details/document filed such as agreements with various Customer Service Point (CSP) agents, agreements with Nationalised banks and RBI Master Circular No. RBI/2005-06/288 DBOD No. BL.BC.58/22.01.001/2005-2006 dated 25th January 2006 and denied the exemption claimed. The relevant extract from the assessment order is as under:

“During the scrutiny assessment proceedings it is observed from the various details and documents furnished such as agreements with various CSP (Customer service Point) agents, agreements with Nationalized banks and RBI Master circular No. RBI/2005-06/288 DBOD No. BL.BC.58/22.01.001/2005-2006 dated 25th January 2006 that the assessee trust is engaged in the financial inclusion by extension of banking services and as business correspondents which includes (i) disbursal of small value credit, (ii) recovery of principal/collection of interest, (iii) collection of small value deposits, (iv) sale of micro insurance/mutual fund products/other third party products and (v) receipts and delivery of small value remittances /other payment instruments. Further it is mentioned in Para 3.3 of the above mentioned RBI circular that the activity to be undertaken by the Business Correspondents would be within the normal course of banks banking business, but conducted through the entities indicated above at places other than the bank premises. Accordingly in furtherance of the objective of increasing the outreach of the banks for micro-finance, in public interest, the Reserve Bank hereby permits banks to formulate a scheme for using the entities indicated in Para 3.1 above as Business.

Further in Para 4 of the above RBI circular it is stated that Banks may pay reasonable commission/fee to the Business Facilitators/Correspondents.

Therefore it is clearly stated in the above RBI Master Circular that the activity which has been assigned to the M/s. SAVE (Society for Advancement of Village Economy) is purely business activity and for that the SAVE is earning commission/fee.

According to first and second proviso to section 2(15) it is clear that the society is not eligible for claiming exemption on the surplus if the aggregate value of the receipts from the activities exceeds 25 lakh (Rupees twenty five lakhs) during the year. Further the above proviso to section 2(15) are better clarified in the CBDT Circular No. 11/2008 dated 19.12.2008.”



3.1. The Ld. AO also examined the provisions of section 2(15) of the Act as regards charitable purpose and was of the view that the activities were not for the charitable purpose but falling under the fourth limb of the definition of charitable purpose and the definition has been amended by adding a proviso which states 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 of use or application, or retention, of the income from such activity.”* Therefore, the various agreements with banks and CSP agents were evident of the fact that the assessee was carrying on business and as per the earlier circular in para 3.1, the RBI had also termed these activities as ‘Business’. Since these were banking transactions or activities, they were purely business activities, therefore, in light of the first and second proviso to section 2(15) of the Act, the Society was not eligible for claiming exemption u/s 11 of the Act. As the TDS was not deducted on payments to CSP, a sum of ₹71,79,910/- paid to CSP agents was disallowed u/s 40(a)(ia) of the Act. Thus, the excess on income over expenditure was considered and the disallowance u/s 40(a)(ia) of the Act was also considered and the total income has been assessed at ₹1,79,64,719/-.

4. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who examined the facts of the case and also considered the assessment order. The assessee was contending that all world economies have one and only one objective and that is the overall welfare of the people and inclusive socio-economic growth and welfare through efficient distribution of financial resources which were very difficult to achieve without inclusion for large masses into formal financial system. It was also helping in women empowerment, employment generation, promotion of remittances and micro insurance. The Ld. CIT(A) went through the CBDT Circular dated 19.12.2008 and has referred to the decision of the Hon'ble Supreme Court in



the case of **ACIT vs. Surat Art Silk Cloth Manufacturers Association [1979] 2 Taxman 501 (SC)/[1978] 121 ITR 1 (SC)[19-11-1979]** and held that the activities of the assessee could not be held to be for charitable purpose within the meaning of section 2(15) of the Act. The relevant extract from the order of the Ld. CIT(A) is as under:

“4.10 The hon'ble Supreme Court held that the concluding words "not involving the carrying on of any activity for profit" go with the "object of general public utility and not with the "advancement". However, this ratio must be read with the findings regarding the assessee's activities in paragraph-17 of the judgment. The Supreme Court held that the publication of the newspaper was carried on commercial lines "with the object of earning profit" and that the publication of the newspaper was an activity which had profit-making as its predominant object

4.11 Thus on the terms of the judgment of the Supreme Court in Surat Art Silk's Cloth Mfgs. case (supra), the activities of the appellants could not be held to be a charitable purpose within the meaning of Section 2(15). In conclusion, the expression "charitable purpose", as defined in Section 2(15) cannot be construed literally and in absolute terms. The section 2(15) of the Act carves out an exception from the charitable purpose of advancement of any other object of general public utility and that exception is limited to activities 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. In both the activities, in the nature of trade, commerce or business or the activity of rendering any service in relation to any trade, commerce or business, the dominant and the prime objective has to be seen. If the dominant and prime objective of the institution, which claims to have been established for charitable purposes, is profit making, whether its activities are directly in the nature of trade, commerce or business or indirectly in the rendering of any service in relation to any trade, commerce or business, then it would not be entitled to claim its object to be a 'charitable purpose'. But, where an institution is not driven primarily by a desire or motive to earn profits, but to do charity through the advancement of an object of general public utility, it cannot but be regarded as an institution established for charitable purposes.

4.12 In the instant case, in view of the aforesaid, it is crystal clear that activities of the appellant society are directly in the nature of trade, commerce or business for the purposes of the profit making as the surpluses so generated are not used for the activities of the appellant trust. Therefore respectfully following the judgements supra, it is held that the appellant



trust and its activities cannot be said to be charitable nature, accordingly action of the AO in denying the exemption under section 11 of the act is therefore upheld.”

4.1 Accordingly, the appeal of the assessee was dismissed. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. The Ld. DR submitted that the assessee was granted approval u/s 12AA of the Act but the order of the Ld. AO has been confirmed by the Ld. CIT(A) and requested that the same may be confirmed.

6. The Ld. AR, on the other hand, countered by stating that the registration granted was not cancelled and the Ld. AO could not sit in judgment over the findings of the Ld. CIT(A) and the exemption claimed ought not to have been denied. Further, written submission has been filed which have been considered and are the same as has been discussed in the order of the Ld. CIT(A). In the written submission the assessee has also relied upon the decision of **ITO(Exemptions), Bhubaneswar vs. Adhikar, Bhubaneswar** (citation not mentioned) and **Creative Museum Designers vs. ITO (Calcutta High Court)** (citation not mentioned); the relevant extract of the written submissions is as under:

“In case of ITO(Exemptions), Bhubaneswar vs Adhikar, Bhubaneswar, the Hon'ble Tribunal sum up the various case studies and submissions made thereon by the appellant, in the light of the discussion, it is apparent that the appellant has been running the micro finance activity on commercial principles which is amplified by the existence of profits year on year. Appellant's activities appear to have an idea of benefitting others but whether the same overrides the converse idea of benefitting oneself is unclear. The loans/payments are made to the target population but whether the latter have actually benefited and whether the intention of the appellant was to only "let the latter benefit" is unclear. Nevertheless, it is a settled law that existence of profit or surplus itself is not a determining factor for denying the benefits under section 11 as long as the registration under section 12AA is not withdrawn as held in the case Asstt. CIT v. Surat City Gymkhana [2008] 300ITR 214/170 Taxman 612 (SC).

Further, in case of Creative Museum Designers Vs ITO (Calcutta High Court), Supreme Court in the case of Thanthi Trust has held that the word "education" occurring in Section 2(15) of the Act has to be given a wider meaning and not to restrict it to mean formal school education. Thus, if the term "education" as occurring of Section 2(15) cannot be restricted to formal school or college education then dissemination of knowledge through a museum or a science park would undoubtedly fall within the meaning of "education" as occurring in Section 2 (15) of the Act. In our case, we have been appointed to facilitate the financial inclusion services and most importantly it was a huge task to educate and provide the trust to use the services and let off the conventional financing system which use to trap their assets and money. RBI has specially included the separate paragraph in its circular RB1/2010-11/217 DBOD.No.BL.BC.43 /22.01.009/2010-11, dated September 28, 2010. Appellant is providing financial education under the guidance of RBI to the people left behind in our society so that they will also be able to compete with the society at large and appellant not charging anything from any customer. Financial education is pre-requisite for any kind of business or we can say that it is a fuel to our economy."

6.1 It is further stated that the assessee's activities are resulting in women empowerment, employment generation and promotion of remittances and micro insurance.

7. We have considered the submissions made. Evidently the approval granted u/s 12AA of the Act was not cancelled by the Ld. CIT(E); therefore, there is merit in the argument that the Ld. AO should have granted the exemption claimed unless the approval granted was cancelled as the same was subsisting. Therefore, in the interest of justice and fair play, the order of the Ld. CIT(A) is set aside and the issue is remanded to the Ld. AO to re-examine the facts of the case and also to examine whether any reference for the cancellation of registration to the Ld. CIT (Exemption) has been made and whether any consequential rejection order has been passed which has been received by him and thereafter pass an order in accordance with law. The assessee shall be given a reasonable opportunity of being heard. Thus, the grounds of appeal filed by the assessee are partly allowed for statistical purpose



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

Order pronounced in the open Court on 9th December, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 09.12.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Society for Advancement of Village Economy, Regd. Off. Shishodiya Niwas, Lalbabu Road, New Godown, Gaya, Bihar, 823001.**
2. **ACIT(Exemption), Circle-Patna.**
3. CIT(A)-I, Patna.
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata