

आयकरअपीलीयअधिकरण, 'बी' न्यायपीठ,चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' 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
आयकरअपीलसं. **ITA No 3107/Chny/2024**

निर्धारणवर्ष/**Assessment Years: --**

Dolphin Club
3/15, Jeswanth Nagar, Mogappiar
West,Chennai-600037

v. CIT, (E),
No. 121, Mahatma Gandhi
Road, Nungambakkam
Chennai-600034

[PAN: AAATD 0288 P]
(अपीलार्थी/**Assessee**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थीकीओरसे/ Assessee by : Mr. N Arjun Raj, Advocate
प्रत्यर्थीकीओरसे /Respondent by : Mr. Shiva Srinivas, CIT
सुनवाईकीतारीख/Date of Hearing : 03.12.2025
घोषणाकीतारीख /Date of Pronouncement : 23.02.2026

आदेश / O R D E R

PER MANU KUMAR GIRI, Judicial Member:

This captioned Appeal filed by the Assessee is directed against the order of the Ld. Commissioner of Income Tax (Exemption), Chennai, [CIT(E)] dated 30.10.2024.

2. Assessee has raised the following grounds of appeal:

1. The order of the CIT(Exemptions) dated 30.10.2024 vide DIN & Order No. ITBA/EXM/F/EXM45/2024-25/1070052820(1) for the above mentioned Assessment Year is contrary to law, fact and in circumstances of the case.
2. The CIT(Exemptions) erred in rejecting the Form No.10AB dated 11.04.2024 filed in the seeking approval under item (iii) of clause (ac) of sub-section (1) of section 12A of the Act without assigning proper reasons and justification.
3. The CIT (Exemptions), Chennai failed to appreciate that at the stage of registration of the appellant trust, only the objects of the said entity as well as the charitability of such



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objects were solely to be examined inasmuch ought to have appreciated that the question of examination of incurrance of expenses on such activities / carrying out such activities would be the subject matter of relevant assessment proceedings and not registration proceedings, thereby vitiating the impugned order passed in its entirety.

4. The CIT (Exemptions), Chennai failed to appreciate that having primarily based the reliance on the decision of the Supreme Court in the case reported in 448 ITR 594, which ratio was in the context of Section 10(23C) of the Act and was held to be prospective in nature by them, the action in rejecting the appellant's reliance upon on the decision rendered in appellant's own case in the matter of registration under Section 12AA of the Act in the absence of any change in the facts nor in the circumstances should accordingly be reckoned as bad in law.

5. The CIT (Exemptions), Chennai failed to appreciate that the genuineness of the trust would get fortified by the documents / details filed along with Statutory Form No. 10AB and hence ought to have appreciated that the related findings in this regard were wrong, erroneous, incorrect, invalid, unjustified and not sustainable both on facts and in law.

6. The CIT (Exemptions), Chennai failed to appreciate that the activities pursued by the appellant entity would fall within the scope of the "education" limb in Section 2(15) of the Act inasmuch ought to have appreciated that the nature of scholastic instruction rendered by the appellant with the approval of another wing of the Government would vitiate the related findings.

7. The CIT (Exemptions), Chennai failed to appreciate that the order under consideration was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law.

8. The CIT(Exemptions) failed to appreciate that there was no proper opportunity given before passing of the impugned order and any order passed in violation of the principles natural justice would be nullity in law.

9.The Appellant craves leave to file additional grounds/arguments at the time of hearing.

3. The Id.CIT(E) has disposed of the assessee's application in Form 10AB u/s.12A(1)(ac)(iii) seeking registration u/s12AB of the Act. In sum and substance, he noted that the application submitted by the applicant, along with the submissions made during the course of the



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hearing, has been examined. However, the application cannot be accepted for the reasons set out below. He further observed that from the application filed in Form 10AB, it is noted that the stated object of the applicant society is "Education." The applicant has relied on an earlier ITAT decision in its own case for AY 2009-10, wherein it was held that the trust fell within the scope of "education" under the first limb of section 2(15) of the Income Tax Act, 1961. However, the factual basis for that conclusion has now lost relevance in view of the Hon'ble Supreme Court's decision in M/s New Noble Educational Society vs CCIT. Further, the principle of res judicata does not apply to proceedings under the Income Tax Act, 1961. Even assuming that the applicant's objective is "Education," the law as laid down by the Hon'ble Supreme Court requires that such activity must be carried out solely for educational purposes. To qualify under this limb of charity, the applicant must satisfy the prescribed legal conditions. Upon verification, it is observed that the applicant has not furnished copies of approvals granted by government authorities to establish that it is an educational institution. Additionally, details relating to affiliation, curriculum, and certification of courses have not been provided. Information regarding the determination of the fee structure and whether the fees charged exceed the limits prescribed by the government is also absent. As clarified by the Hon'ble Supreme Court in Sole Trustee, LokaShikshana Trust v. CIT (1975) 101 ITR 234, the term "education" under section 2(15) refers to systematic instruction, schooling, or training imparted to the young to prepare them for life, and includes scholastic instruction received through a structured course of study. The term is not intended to cover every form of knowledge acquisition in its widest sense. If the term "education"



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were interpreted broadly, activities such as travelling or routine interactions where individuals incidentally gain knowledge, would also qualify as education. For instance, a mechanic advising customers during vehicle servicing, or a tourist operator taking passengers to places of interest, may enrich knowledge but such activities do not constitute "education" within the meaning of section 2(15). Therefore, such activities do not fall under the second limb of charity, namely "Education," and hence do not qualify as a "Charitable Purpose" under section 2(15) of the Income Tax Act, 1961. The applicant has stated that although it operates a swimming pool, its programme includes providing swimming classes to school students at a nominal fee and free classes to special children. However, considering the overall objectives and activities, the applicant can at best be regarded as an entity engaged in General Public Utility (GPU). To avail exemption benefits, the applicant must demonstrate actual charitable activity. While the applicant claims to provide subsidized coaching, no supporting evidence has been submitted during the proceedings. Consequently, the claim could not be verified. An examination of the financial statements reveals that the applicant earns income primarily from coaching fees, membership fees, and interest. The expenses incurred relate to salaries, incentives, competition expenses, swimming equipment, electricity, advertising, and depreciation. These facts indicate that the activity is conducted purely on commercial lines, with swimming coaching being provided in exchange for fees. No expenditure has been shown towards charitable activities, nor has any evidence been furnished to establish that coaching is offered at subsidized rates. There are also no provisions in the stated objectives mandating subsidized coaching. Accordingly, it is concluded that the applicant



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operates on a quid pro quo basis. Another significant source of income is membership fees. The applicant operates the swimming academy on the lines of a club, based on the principle of mutuality. As per the Memorandum of Association dated 01.11.1994, the society provides for Life Membership and Annual Associate Membership, with specified fees collected by the treasurer on behalf of the club. Thus, the applicant society functions as a club formed for the benefit of its members only. The benefits are restricted to a defined group and are not available to the general public, unlike a public charitable trust. Under section 2(15) of the Act, an entity advancing General Public Utility cannot engage in trade, commerce, or business, or provide services in relation thereto for consideration, except where such activities are incidental to achieving the charitable object and the income from such activities does not exceed 20% of total receipts. In the present case, the applicant's entire income is derived from commercial activities with a profit motive. Further, in light of the ruling in Ahmedabad Urban Development Authority (AUDA), since the applicant's entire receipts arise from conducting coaching and training classes on a commercial basis, the incidental activity has effectively become the main activity. Therefore, the applicant fails to satisfy the conditions laid down in the said judgment. Based on the above findings, it is evident that the activities of the applicant trust do not fall within the scope of "Charitable Purpose" under section 2(15) of the Income Tax Act, 1961. Consequently, the application filed under section 12A(1)(ac)(iii) in Form 10AB is not maintainable and is liable to be rejected. Accordingly, considering the facts and circumstances of the case, the application filed by the applicant on 11.04.2024 in Form



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10AB seeking registration under section 12AB of the Income Tax Act is rejected.

4. The Ld.AR read out and referred page No.43 of the paper book which describes the activities of the assessee. The activities of assessee are as under:

Activities of the Dolphin Club in various areas in the field of promotion of sports (swimming) for the year 2022-23

- 1) TRAINING: a. High Performance Training-around 30 swimmers were underwent under these High Performance Training programme every day from 5 to 8.30 Am and evening 5 to 7 pm. All the above training includes Physical fitness by experts, nutritional guidance and motivational classes
 - b) Advance level. Training: There are around fifty swimmers (school students) were attended regularly our advance level training every day from 5.45 pm to 8 pm under the eminent coaches
 - c. Special Therapeutic Training: this special training classes for Hyperactive and spastic children as per the medical advice and for physically challenged persons, accident victims.
 - d. Catch them Young programme: Camp during summer vacation as part of catch them young programme. We select the talent from this program for advanced training.
 - e. Training for adult/senior open swimmers who are attending swimming events at state and National level conducted by state swimming Association / Swimming Federation of India.
 - f) Learn to swim and advanced training classes to Govt. School Students / differently challenged persons, Imparted coaching and training to a number of poor and indigent youth, Govt./corporation School Students and to differently challenged persons and others from the lesser privileged citizenry. This has been done over the years and is a continuing program. (Past COVID lockdown, the enthusiasm from schools and school students and parents were not that attractive)
- 2) Competitions & Performance: Our team have participated in the various swimming competitions held during the year 2022-2023 (National, Southzone, state, Khelo India National, School National, CBSE school National and District levels)

Total Medals won by our Dolphin Team

Sl. No		No of Medals
1	Gold	160
2	Silver	150
3	Bronze	145
4	Individual Championships	11
5	Team Championships	6
6	Overall Championships	4
7	New Meet records	2



3. All the medal winners and our coaches were felicitated during the year 2022-23

Activities of the Dolphin Club in various areas in the field of promotion of sports (swimming) for the year 2021-2022

Please note due to CORONA LOCKDOWN the activities was very less,

1) **TRAINING:** a) **Competitive Training:** There are around 100 students between the age of 4 and 22 years are enrolled for our competitive training programme daily from 5.30 am to 8.30 am & 5.00 pm to 8.30 pm. Trainings were also given to adult/ seniors members who are attending master swimming events at state and National level competitions conducted by state swimming Association/Swimming Federation of India. All the above training includes fitness, Yogasna, Pranayama and meditation.

a) **Special Therapeutic Training:** 1) Academy has organized Special training for Hyperactive and spastic children as per the medical advice. 2) Also conducted learn to swim classes to the physically challenged persons free of cost. 3) Accident victims are taken special care for smooth recovery and recuperation and even under medical supervision wherever necessary.

b) **Catch them Young programme:** During summer vacation learn to swim camp will conduct as part of catch them young programme. We select the talents from this program for advanced training.

c) **Learn to swim classes to Govt. School Students:** Learn to swim classes were conducted to nearby Govt. School Students for those who are interested to learn from us as free of charges (till pre-COVID)

2) **Supplies to Swimmers:** Goggles and Caps were supplied

a) **Kits:** T.Shirts, Tracksuit, Uniforms, swimming costumes, to the swimmers and to the underprivileged students.

b) **Extra diets & Vitamins:** Competitive swimmers were given vitamins, energy fluids and Swimming Equipment/Gear/ Publications etc apart from providing motivational classes with nutritional guidance.

3) **Mission Olympic:** Under the Mission Olympic Scheme we have conducted beginning classes for 50 Govt. School students (from nearby Govt. School) regular basis, thereafter for those who are interested for advanced level training we have provided competitive training (till pre covid) thinking that swimmers from this under privileged category will benefit from this scheme (yet to start again)

4) **Competitions & Performance:** Our team have participated in the various swimming competitions held during the year 2021-2022 (National & state level)

Total Medals won by our Dolphin Team-2021-2022

SI. No		No of Medals
1	Gold	167
2	Silver	140
3	Bronze	153
4	Individual Championships	10
5	New Meet records	3



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6	Team Championships	17
7	Overall Championships	4

5. Technic & Stroke analyzing by Overseas Experts - We arranged Technic & Stroke analyzing program by Overseas Experts during the year 2021-22. This program helped our state swimmers to analyze and develop their stroke technics to enable them to enhance their performance. We planned this program on regular basis to all the swimmers of TN.

5. He also referred the co-ordinate Bench order in assessee's own case in ITANo.1929/Mds/2014 for AY2009-10 titled Deputy Director of IncomeTax (Exemptions)-III Vs M/s. Dolphin Club has held as under:

6.4. For the aforesaid reasons, we hereby hold that the objects of the assessee trust falls within the scope of the first limb of Sec.2(15) of the Act viz. 'Education' and therefore, the proviso to Sec.2(15) of the Act will not be attracted and accordingly, the order of the Ld. CIT (A) stands confirmed.

6. He also read out the CIRCULAR: NO. 395 [F.NO.181(5) 82/IT(A-I)] which is as under:

SECTION 2(15) OF THE INCOME TAX ACT, 1961- CHARITABLE PURPOSE-WHETHER PROMOTION OF SPORTS AND GAMES CAN BE CONSIDERED TO BE CHARITABLE PURPOSE

CIRCULAR: NO. 395 [F.NO.181(5) 82/IT(A-I)], DATED 24.09.1984

1. The expression "charitable purpose" is defined in section 2(15) to include relief of the poor, education, medical relief and the advancement of any other object of general public utility.

2. The question whether promotion of sports and games can be considered as being a charitable purpose has been examined. The Board are advised that the advancement of any object beneficial to the public or section of the public as distinguished from an individual or group of individuals would be an object of general public utility. In view thereof, promotion of sports and games is considered to be a charitable purpose within the meaning of section 2(15). Therefore, an association or institution engaged in the promotion of sports and games can claim exemption under section 11 of the Act, even if it is not approved under section 10(23) relating to exemption from tax of sports associations and institutions having their objects as the promotion, control, regulation and, encouragement of specified sports and games."

7. Per contra, the Id. DR for the revenue relied upon the impugned order and pleaded that the assessee earns income from coaching and membership fees. The activities are conducted on commercial lines.



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The decision in *New Noble Educational Society v. CCIT* requires strict interpretation of the term "education". The assessee has not established that it exists solely for educational purposes.

8. We have heard the rival submissions and perused the material available on record. At the stage of grant of registration under section 12AB, the competent authority is required to examine:

1. The objects of the trust/institution; and
2. The genuineness of its activities.

The authority is not expected to conduct a detailed examination of application of income or adjudicate upon eligibility of exemption u/s. 11 and 12, which are matters to be considered during assessment proceedings. In the present case, the Ld. CIT(E) has embarked upon an elaborate analysis of receipts, expenditure pattern, alleged commerciality and mutuality. In our considered opinion, such examination travels beyond the limited jurisdiction contemplated under section 12AB.

9. Now we have to consider the question whether the Activities of the assessee constitute "Education" ?

The material placed on record demonstrates that the assessee conducts high performance training programmes, advanced level coaching to school students, special therapeutic training to hyperactive, spastic and differently-abled children, free training to Government school students, structured training sessions conducted daily under qualified coaches, participation in State, National and Khelo India competitions, nutritional guidance and structured curriculum-based training. These activities clearly involve systematic instruction, training and development of skills in the field of swimming. In *Sole Trustee, LokaShikshana Trust v. CIT*, the Hon'ble Supreme Court held that "education" connotes systematic



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instruction, schooling or training. The assessee's activities, as evidenced from records, satisfy this test. Further, CBDT Circular No.395 dated 24.09.1984 clarifies that promotion of sports and games is an object of general public utility and qualifies as charitable purpose under section 2(15). The circular is binding on the Department. The co-ordinate Bench of this Tribunal in assessee's own case for AY 2009-10 has categorically held that the objects fall within the first limb of section 2(15) i.e., "education". The Revenue has not brought on record any material to show that there is any change in the objects of the society or the nature of activities has materially altered.

10. Though the principle of res judicata does not strictly apply to income-tax proceedings, the rule of consistency and judicial discipline requires that in the absence of change in facts or law, a contrary view should not be taken. The reliance placed by the Ld. CIT(E) on *New Noble Educational Society v. CCIT* is misplaced. That decision reiterates that the institution must exist solely for educational purposes. In the present case, the dominant and sole activity is structured swimming training and promotion of the sport through systematic coaching. There is no material to demonstrate diversion of funds for non-charitable purposes. The mere charging of fees for coaching does not ipso facto render the activity commercial. It is settled law that charging reasonable fees to sustain charitable activities does not destroy the charitable character, provided profit maximization is not the predominant motive. At the stage of registration, the authority is not required to conclusively determine whether the proviso to section 2(15) is attracted. That aspect can be examined during assessment based on actual receipts of a particular year. The findings of the Ld. CIT(E) that the assessee operates



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purely on commercial lines are not supported by any cogent material demonstrating profit motive or private benefit. Regarding 'Mutuality Aspect', the observation that the assessee functions like a club governed by mutuality is not sufficient to deny registration when the material on record shows that:

- Training is imparted to school students;
- Free coaching is provided to Government school students and differently-abled children;
- Activities are not restricted exclusively to a closed group of members.

11. Thus, the benefit is not confined to a limited set of persons but extends to a section of the public. Considering the totality of facts, the objects of the assessee are charitable in nature. The activities constitute systematic training and instruction in sports, falling within "education" u/s.2(15) of the Act. The genuineness of activities is evidenced by detailed records of training programmes and competitions. Accordingly, we hold that the rejection of the application filed in Form 10AB is not sustainable in law. Hence, the impugned order dated 30.10.2024 passed by the Ld. CIT(E), Chennai is hereby set aside. The Ld. CIT(E) is directed to grant registration to the assessee u/s.12AB of the Act.

12. The appeal of the assessee is allowed.

Order pronounced on the 23rd day of February 2026, in Chennai.

Sd/-

(एस. आर. रघुनाथा)

(S.R.RAGHUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य/**JUDICIAL MEMBER**



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चेन्नई/Chennai,

दिनांक/Dated: 23rd February, 2026.

SNDP, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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