IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/TAX APPEAL NO. 467 of 2025

==
COMMISSIONER OF INCOME TAX (EXEMPTIONS) AHMEDABAD
Versus
BHAVNAGAR MANDAP CONTRACTORS ASSOCIATION
==
Appearance:
MR AMAN MIR(10881) for the Appellant(s) No. 1
==

CORAM:**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 22/07/2026
ORAL ORDER

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1. Heard learned Senior Standing Counsel Mr. Aman Mir appearing for appellant.

2. By this appeal under Section 260A of the Income Tax Act, 1961 [for short ‘the Act’] arising out of order dated 21.11.2024 passed by the Income Tax Appellate Tribunal 'C' Bench Ahmedabad (for short 'Tribunal') in ITA No. 542/AHD/2020 proposing following substantial questions of law:

(i) Whether on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal has erred in holding that objects of assessee are charitable in nature under Section 2(15) of the Act i.e. 'advancement of any other object of General Public Utility' ignoring the fact that activities of the trust are for the benefit of its members and not for the benefit of the public at large?

(ii) Whether on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal has erred in holding that registration of trust is not required for the purpose of grant of registration under section 12A of the Income-tax Act, 1961, ignoring Rule 17A(1)(c) of the Income-tax Rules, 1962 which states that an application for registration of charitable or religious trusts shall be accomplished by "self certified copy of registration with Register of companies or Register of Firms and Societies or Register of Public Trusts, the case may be?

3. The brief facts of the case are that the Assessee-Trust filed an application for registration of Trust under Section 12AA

of the Act on 10.07.2019 in Form No 10A under Rule 11AA of the Income Tax Rules, 1962 [‘the Rules’ for short] along with requisite details and documents.

3.1 The Commissioner of Income Tax (Exemption) (for short ‘the CIT(E)’), on receipt of the application, observed that the memorandum of association of the assessee-Trust indicated that the objects of the Trust were primarily for the benefit of a specific group of individuals, i.e. Mandap Contractors operating in the Bhavnagar jurisdiction, and objects were not for the general public.

3.2 It was observed by the CIT(E) that the objectives of the Trust primarily focused on knowledge sharing, organizing events, encouraging trades among its members who were all aimed at benefiting the members of the trust and not the public at large.

3.3 The CIT(E) also observed that the applicant- Trust also charged entry fees of Rs. 5,000/- from members and had also fixed annual members' dues, which demonstrated that the activities of the Trust were primarily of a mutual nature, limited to its members and not for a public charitable purpose.

3.4 The CIT(E) further observed that since the assessee-Trust was not registered as a Charitable Trust with the Charity Commissioner or any other competent authority and has admitted being an association or person, would also disqualify the assessee-Trust from the benefits under the provisions of the Act applicable to Charitable and Religious Trusts. Therefore, the CIT(E), rejected the application for registration filed by the assessee-Trust.

3.5 Being aggrieved, the assessee preferred an appeal before the Tribunal. The assessee contended before the Tribunal that as per the decision of the Coordinate Bench of the Tribunal in the case of Panchkuva Cloth Merchant Association vs. Commissioner of Income Tax (Exemption) Ahmedabad reported in [2021] 128 Taxmann.com 391 (Ahmedabad-Trib), it was held that for allowing the application of Section 12AA of the Act, it is nowhere provided that the assessee-Trust has to be registered with the Charity Commissioner or Registrar of Companies.

3.6 It was also contended that the assessee-Trust cannot be considered as a AOP only for the purpose of mandap contractors, otherwise all the trade associations would become ineligible for grant of registration under Section 12AA of the Act.

3.7 The Tribunal relied upon the decision in the case of Panchkuva Cloth Merchant Association vs. CIT(E) Ahmedabad Tribunal reported in 128 taxmann.com 391. The Tribunal also relied upon the decision of the Pune Bench in the case of Federation of Trade Association of Pune vs. CIT [Exemption] reported in 132 taxmann.com 87 (Pune Benh-Trib), and the decision of the Hon'ble Delhi High Court in the case of Fertilizers Association of India reported in 99 taxmann.com 387 (Delhi) wherein, it is held that mere charging of fees from members or non-members for rendering services ipso facto would not lead to denial of exemption when the dominant object of the assessee remains charitable and such activities were only incidental to the main activity.

3.8 Reliance was also placed by the Tribunal on the decision of Confederation of Pharma Dealers Association vs Commissioner of Income Tax (Exemptions) reported in 137 taxmann.com 117 of the Raipur Bench wherein, it is held that the assessee-society was engaging in the promotion of trade and commerce related to the pharma business and protecting rights and interests of its members and would be covered in the fourth limb of Section 2(15), that is, the advancement of any other object of general public utility and would be entitled to registration under Section 12A of the Act. Considering this decision, the Tribunal quashed and set aside the order of the CIT(E) and remitted the matter to consider the case of the assessee afresh by observing as under :

> "14. Accordingly, in our considered view, in light of the above judicial precedents and facts of the assessee's case, in our considered view Ld. precedent CIT(E) has erred in facts and in law in denying grant of registration to the assessee / applicant trust under Section 12AA of the Act. Accordingly, the issue is resotred to the file of Ld.

> CIT(E) to consider the case of the assessee fresh, after giving due opportunity to the assessee to present it's case on merits with all supporting details / documents and not to disentitle the assessee / applicant grant of registration on the basis of reasons mentioned above."

4. A Five Judge Bench of the Hon'ble Supreme Court in the case of **Additional Commissioner of Income Tax vs. Surat Art Silk Cloth Manufacturers Association** reported in 1978 (128) 1 ITR 1 (SC) has analyzed the scope of Section 2(15) read with Section 11 of the Act and, by majority, it was held in the facts of the case that the assessee-association, a company within the meaning of Section 25 of the Companies Act, 1956, was set up to promote commerce and trade in art silk etc. and in terms of clauses 5 to 10 of the memorandum of association, income of

the assessee was liable to be applied solely and exclusively for the promotion of the specified objects only. The Assessing Officer, however, rejected the claim of the assessee that it was an institution for charitable purpose on the ground that its objects were not charitable within the meaning of Section 2(15) of the Act.

5. The Hon'ble Apex Court by majority has held as under:

> "Where the main or primary objects are distributive, each and every one of the objects must be charitable in order that the trust is upheld as a valid charity. But if the primary or dominant purpose of a trust or institution is charitable, another object which by itself may not be charitable but which is merely ancillary or incidental to the primary or dominant purpose, would not prevent the trust from being valid charity. The test which has, therefore, to be applied is whether the object

which is said to be non-charitable is a main or primary object of the trust or institution or it is ancillary or incidental to the dominant or primary object which is charitable. Applying this criteria, it is clear that the dominant or primary purpose of the assessee-association was to promote commerce and trade in the said articles and the other objects were merely incidental to the carrying out of this dominant or primary purpose and were, in fact, in the nature of powers conferred upon the assessee for securing the fulfilment of the dominant or primary purpose. It is true that the subsidiary objects of the assessee would benefit its members but the benefit would be incidental in carrying out its main or primary purpose. If, therefore, its dominant or primary purpose was charitable, the subsidiary objects would not militate against its charitable character and its purpose would not be any the less charitable. The words "not involving the carrying on of any activity for profit" in section 2(15) qualify or govern only the last head of charitable purpose and not the earlier three heads. Thus, where the purpose of a trust or institution is relief of the poor, education or medical relief, the requirement of the definition of "charitable purpose" would be fully satisfied, even if an activity for profit is carried on in the course of the actual carrying out of its primary purpose. But, if its purpose cannot bring it under the cover of earlier three heads and its claim to be a charitable purpose rests only on the last head, it has to fulfil two conditions: (i) its purpose must be an advancement of general public utility, and (ii) this purpose must not involve the carrying on of any activity for profit.

To arrive at the true meaning and effect of the words "not involving the carrying on of any activity for profit", the question to be resolved first is whether these words qualify "advancement" or "object of general public utility". It is clear on a plain natural construction of the language used by the Legislature that the ten crucial words "not involving the carrying on of any activity for profit" go with words "object of general public utility" and not with the word "advancement". What is inhibited by these last ten words is the linking of activity for profit with the object of general public utility and not its linking with the accomplishment or carrying out of the object. The emphasis is on the object of general public utility and not on its accomplishment or attainment. The true meaning of these last ten words is that when the purpose of a trust or institution is the advancement of an object of general public utility, it is that object of general public utility, and not its accomplishment or carrying out, which must not involve the carrying on of any activity for profit. The Revenue contended that whatever be the object of general public utility, its "advancement" or achievement cannot involve the carrying on of any activity for profit, otherwise the purpose of the trust would not be a charitable purpose and its income from business would not be immune from tax liability. This contention cannot, however, be accepted as its consequence would be as follows:

(i) The trust or institution established for promotion of an object of general public utility would not be able to engage in business for fear that it might lose the tax exemption altogether and a major source of income for promoting objects of general public utility would be dried up. It is difficult to believe that the Legislature could have intended to bring about a result so drastic in its

> consequence. If the intention of the Legislature were to prohibit a trust or institution established for promotion of an object of general public utility from carrying on any activity for profit, it would have provided in the clearest terms that no such trust or institution shall carry on any activity for profit, instead of using involved and obscure language giving rise to linguistic problems and promoting interpretative litigation.
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> (ii) Section 11(4), which declares that "property held under trust" shall include a business undertaking enjoying immunity from tax and which gave statutory recognition to this principle decided by this Court in earlier cases, would be rendered wholly superfluous and meaningless, after the insertion of clause (bb) in section 13(1) with effect from 1-4-1977.
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> The question that automatically arises, in this context, is as to when can the purpose of the trust be said to involve the carrying on of any activity for profit? The word "involve", according to the Shorter Oxford Dictionary, means "to enwrap in anything. to enfold

or envelop; to contain or imply". The activity for profit must, therefore, be intertwined or wrapped up with or implied in the purpose of the trust or institution or, in other words, it must be an integral part of such purpose. There are two possible ways of construction, one interpretation is that, according to the definition, what is necessary is that the purpose must be of such a nature that it involves the carrying on of any activity for profit in the sense that it cannot be achieved without carrying on an activity for profit. On this view, if the purpose can be achieved without the trust or institution engaging itself in an activity for profit, it cannot be said that the purpose involves the carrying on of an activity for profit. This interpretation would be too narrow as it would defeat the object of introducing the words "not involving the carrying on of any activity for profit". Such a construction, which emasculates these last concluding words and renders them meaningless and ineffectual, cannot be accepted. The other interpretation is to see whether the purpose of the trust or institution in fact involves the carrying on of an activity for profit, i.e., whether an activity for profit is actually carried on as an integral part of the purpose or as a matter of advancement of the purpose. There must be an activity for profit and it must be involved in carrying out its purpose or, to put it differently, it must be carried on in order to advance the purpose or in the course of carrying out the purpose of the trust or institution. It is then that the inhibition of the exclusionery clause would be attracted. This appears to us to be a more plausible construction which gives meaning and effect to the last concluding words added by the Legislature and its acceptance is preferable. It is not enough that an activity results in profit but it must be carried on with the object of earning profit. Profit-making must be the end to which the activity must be directed. Where, an activity is not pervaded by profit motive but is carried on primarily for serving the charitable purpose, it would not be correct to describe it as an activity for profit. But where, on the other hand, an activity is carried on with the predominant object of earning profit, it would be an activity for profit, though it may be carried on in advancement of the charitable purpose of the trust or institution. Where an activity is carried on as a matter of advancement of or for the purpose of carrying out the charitable purpose, it would not be incorrect to say that the charitable purpose involves the carrying on of such activity, but the predominant object of such activity must be to sub serve the charitable purpose and not to earn profit. The charitable purpose should not be submerged by the profit-making motive; the latter should not masquerade under the guise of the former. The purpose of the trust must be "essentially charitable in nature" and it must not be a cover for carrying on an activity which has profit-making as its predominant object.

It is not at all necessary that there must be a provision in the constitution of the trust or institution that the activity shall be carried on no-profit no-loss basis or that profit shall be proscribed. Even if there is no such express provision, the nature of the charitable purpose, the manner in which the activity for advancing the charitable purpose is being carried on and. the surrounding circumstances may clearly indicate that the activity is not propelled by a dominant profit motive. What is necessary to be considered is whether the dominant object of the activity is profit-making or carrying out a charitable purpose. If it is the former, the purpose would not be a charitable purpose, but, if it is the latter, the charitable character of the purpose would not be lost.

In the instant case, the predominant object of the assessee's activity was promotion of commerce and trade in specified articles which was clearly an object of general public utility and profit was merely a bye-product which resulted incidentally in the process of carrying out the charitable purpose. Therefore, the Tribunal was right in taking the view that the purpose for which the assessee was established was a charitable purpose within the meaning of section 2(15) and that its income was exempt from tax under section 11.

2. This Court cannot travel beyond the particular question of law which has been referred to it by the Tribunal on account of confict in the decisions of the High Courts. It cannot, in a direct reference deal with a question of law on which there is no conflict of decisions amongst the High Courts because such a question would be outside the jurisdiction

> of the Tribunal to refer under section 257. The contention of the Revenue that the objects of the assessee did not fall within the category "advancement of any other object of general public utility" and were, therefore, not charitable within the meaning of section 2(15) cannot be allowed to be raised in these references."

6. The above ratio of the Hon'ble Apex Court would also be applicable after the insertion of Section 12AA of the Act which reads as under:

> "**Procedure for registration.**
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> **12AA.** (1) The Principal Commissioner or Commissioner, on receipt of an application for registration of a trust or institution made under clause (*a*) or clause (*aa*) or clause (*ab*) of sub-section (1) of section 12A, shall—
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> [(*a*) call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about, —

(*i*) the genuineness of activities of the trust or institution; and

(*ii*) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects,

and may also make such inquiries as he may deem necessary in this behalf; and]

(*b*) after satisfying himself about the objects of the trust or institution and the genuineness of its activities [55][as required under sub-clause (*i*) of clause (*a*) and compliance of the requirements under sub-clause (*ii*) of the said clause], he—

(*i*) shall pass an order in writing registering the trust or institution;

(*ii*) shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution, and a copy of such order shall be sent to the applicant :

Provided that no order under sub-clause (*ii*) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

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(4) Without prejudice to the provisions of sub-section (3), where a trust or an institution has been granted registration under clause (*b*) of sub-section (1) or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and subsequently it is noticed that

[(*a*) the activities of the trust or the institution are being carried out in a manner that the provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 13; or

(*b*) the trust or institution has not complied with the requirement of any other law, as referred to in sub-clause (*ii*) of clause (*a*) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality,then, the Principal Commissioner or the Commissioner may, by an order in writing, cancel the registration of such trust or institution:]

Provided that the registration shall not be cancelled under this sub-section, if the trust or institution proves that there was a reasonable cause for the activities to be carried out in the said manner."

7. It would be also relevant to refer to Rule 17A(1) of the Rules which reads as under:

"17A. [Application for registration of charitable or religious trusts, etc. [Rule 17A substituted by the Income-tax (First Amendment) Rules, 2018, w.e.f. 19-2-2018.]

(1)An application under clause (aa) or clause (ab) of sub-section (1) of section 12A for registration of a charitable or religious trust or institution shall be made in Form No. 10A and accompanied by the following documents, namely:-

(a) where the trust is created, or the institution is established, under an instrument, self-certified copy of the instrument creating the trust or establishing the institution;

(b) where the trust is created, or the institution is established, otherwise than under an instrument, self-certified copy of the document evidencing the creation of the trust, or establishment of the institution;

(c) self-certified copy of registration with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts, as the case may be;

(d) self-certified copy of the documents evidencing adoption or modification of the objects, if any;

(e) where the trust or institution has been in existence during any year or years prior to the financial year in which the application for registration is made, self certified copies of the annual accounts of the trust or institution relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up;

(f)note on the activities of the trust or institution;

(g)self-certified copy of existing order granting registration under section 12A or section 12AA, as the case may be; and

(h)self-certified copy of order of rejection of application for grant of registration under section 12A or section 12AA, as the case may be, if any."

8. In order to understand the controversy, it would be necessary to refer to the following provisions:

"Conditions for applicability of sections 11 and 12.

12A. (1) The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(*a*) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the [Principal Commissioner or] Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, whichever is later and such trust or institution is registered under section 12AA :

Provided that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution,—

(*i*) from the date of the creation of the trust or the establishment of the institution if the [Principal Commissioner or] Commissioner is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons;

(*ii*) from the 1st day of the financial year in which the application is made, if the

[Principal Commissioner or] Commissioner is not so satisfied:

Provided further that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;"

"**2. Definitions**.—In this Act, unless the context otherwise requires,—

[(15) "charitable purpose" includes relief of the poor, education, 10[yoga,] medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest,] and the advancement of any other object of general public utility:

[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 of use or application, or retention, of the income from such activity, unless—

(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

(ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent. of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;]"

9. A conjoint reading of the above provisions clearly demonstrates that the assessee is required to establish by producing evidence in the form of documents by way of an instrument creating Trust, and such documents would include all types of documents which lead to the creation of the Trust and existence of the Trust. In the facts of the case, the Assessee filed

Form-10A for approval under section 12AA of the Act which was rejected by the CIT(E) on the ground that on perusal of the Memorandum of Association of the assessee, its objects pertain only to its members. However, CIT(E) has not given any finding regarding genuineness of the creation of the for the benefit of its members and in view of the amendment of section 2(15) of the Act once the Trust is established for the purpose of advancement of the business for the public at large, the same would be considered as charitable purpose. The Hon’ble Supreme Court in case of Assistant Commissioner of Income-tax (Exemptions) v. Ahmedabad Urban Development Authority reported in 449 ITR 1 (SC)has held 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 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 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 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 assessees 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 assessees 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, 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 assessees (whether statutory, or non-statutory) 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."

10. In the facts of the case, the assessee has submitted its Agreement of Association of Persons dated 31st May 2019 with the following main objects:

> "1. Main Object: That the main purpose of AOP shall be
>
> To organize events for its members,
>
> To share knowledge and Information among members and to educate them. To encourage the trade,industry and profession of Mandap contractors works To represent to government and non government organization on behalf of and for the benefit and larger interest of members and To promote and carry all such activities which are in benefit of members."

11. On perusal of the above objects, it is for the advancement of the trade and business

for its members and the public at large. In view of above dictum of law, assessee which is Trade promotion body involved in trade promotion set up with the objects of purely advocating for, coordinating and assisting trading organizations, can be said to be involved in advancement of objects of general public utility.

12. Therefore, considering the above facts, the Tribunal has rightly applied the decision of *Panchkuva Cloth Merchant Association (supra)*, as the assessee trust has fulfilled the criteria laid down in Rule 17A of the Rules read with section 12AA of the Act. On going through the objects of the Trust, the Tribunal has found that the assessee Trust had been set up to promote, develop, and protecting

interest of trade and commerce, which falls within the scope of advancement of any other object of general public utility as provided under section 2(15) of the Act. None of the activities of the assessee-Trust was in the nature of trade, commerce, or business and thus, the Tribunal arrived at a finding of fact that the assessee-Trust satisfies the conditions, viz. that the objects of the Trust should be of advancement of any other object of general public utility, and secondly, that no activity in the nature of trade, commerce, or business, etc., should be carried on by it.

13. As per Rule 17(a), of the Rules, the assessee is required to file an application of registration under section

12AA of the Act, accompanied by the documents described therein, to establish the genuineness of the creation of such Trust or institution. Thus, Rule 17A of the Rules does not envisage the existence of a trust deed or its registration, as the existence of the Trust can also be established by producing documentary evidence evidencing the creation of the Trust. Section 12AA of the Act lays down the procedure for granting registration, which only requires the CIT(E) to call for the documents or information from the Trust or institution as he thinks necessary in order to satisfy himself about the genuineness of the activities of the Trust or institution and to inquire regarding the same and after satisfying about the objects of the Trust or institution and the genuineness of the activities, registration is required to be granted.

14. Accordingly, the Tribunal has rightly set aside the order of rejection passed by the CIT (E) denying the grant of registration to the assessee-Trust under section 12AA of the Act.

15. In view of the foregoing reasons, no interference is called for in the impugned order of the Tribunal, as no question of law or substantial question of law can be said to have arisen from the same.

The Tax Appeal is accordingly dismissed.

(BHARGAV D. KARIA, J)

(PRANAV TRIVEDI,J)

JYOTI V. JANI