

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH “A”, HYDERABAD**

**BEFORE SHRI B. RAMAKOTAIAH, ACCOUNTANT MEMBER
AND SHRI V. DURGA RAO, JUDICIAL MEMBER**

**ITA No. 1783/Hyd/2017
Assessment Year: 2014-15**

Institute of Health Systems, Hyderabad.	vs.	Income Tax Officer, Exemptions – 2, Hyderabad.
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PAN – AAATI 0679P

(Appellant)

(Respondent)

Assessee by :	Shri Narahari Biswal
Revenue by :	Shri K.J. Rao

Date of hearing	13/06/2018
Date of pronouncement	28/06/2018

ORDER

PER V. DURGA RAO, J.M.:

This appeal filed by the assessee is directed against the order dated 7th July, 2017 of CIT(A) – 9, Hyderabad for AY 2014-15.

2. Briefly the facts of the case are, assessee is a society formed with effect from 5th December, 1990 and it is registered u/s 12A of the Income-tax Act, 1961 (in short ‘the Act’) on 19/12/1990. The memorandum of society is, unless

the context otherwise requires, “Health systems” includes the professional, technological, behavioural, social, economic, cultural and other subsystems whose interrelated action contribute to the health of the people. The objects of the assessee are as under:

3. 1.1 To promote and provide for study of health systems, health policy, health services management, health economics and medical sociology.

3.1. 2 To identify processes that can work to improve the health of the people.

3.1.3 To observe processes that work amongst the functionaries and beneficiaries of the health care delivery system.

3.1.4 To look for Locally viable solutions and innovations.

3.1.5 To assist in development and strengthening of linkages for social development.

3.1.6 To develop, apply and disseminate knowledge about health systems and services, their organization and management.

3.1.7 To conduct applied health systems research .

3.1.8 To promote good and appropriate management practices and encourage cost efficiency among health care delivery institutions (HDIs).

3.1.9 To promote efficient material resources management by health care delivery institutions. .

3.1.10 To promote effective human resources management by health care delivery institutions.

3.1.11 To promote improvements in the planning and management of hospitals and health services.

3.1.12 To conduct training, research and offer consultancy on the planning design and evaluation of buildings for health care delivery institutions.

3.1.13 To improve standards of health care by developing and applying management ethos, perceptions and skills.

3.1.14 To offer consultancy and advisory assistance to health authorities and HDTs in project formulation, appraisal monitoring and related areas.

3.1.15 To conduct evaluation studies on the impact of medical and health care policies, systems, programmes, schemes, projects, institutions etc.

3.1.16 To undertake research, development, teaching and consultancy activities to assist managers in provision of efficient and effective health care services.

3.1.17 To promote excellence in health services management and development of good managers

3.1.18 To undertake economic research training and consultancy in health and health care problems

3.1.19 To undertake teaching research and consultancy activities, intended to increase the effectiveness of health care services.

3.1.20 To undertake research on matters concerned with organized delivery and management of health services particularly resource allocation, development of appropriate planning methodologies, evaluation of health care and measurement of health activities.

3.1.21 To promote development of standards and quality systems in the health sector.

3.1.22 To promote adoption of cost effective regimen and appropriate technology in the health sector.

3.1.23 To carryout research and undertake consultancy educational and advisory services in cost reduction processes in health care delivery institutions.

3.1.24 To undertake research, training and provide consultancy services in policy development, application, monitoring or evaluation of antipoverty, child development and nutritional programmes as well as other rural development and social services sector programmes.

3.1.25 To establish and maintain libraries and information services to facilitate the study and application of the principles health services management, health economics, medical sociology and appropriate health policy, rural development, social services programmes etc.

3.1.26 To constitute or cause to be constituted Regional Branches at convenient centres in India to promote the objects of the Society

3.1.27 To cooperate with approved institutions and bodies for the purposes of helping the cause of improved and cost effective health care to people.

3.1.28 To offer prizes and to grants scholarships and stipends in furtherance of the objects of the Society, and

3.1.29 To do all such other lawful things as .or conductive or incidental to the attainment of the above objects. ~

4. CERTIFICATES:

Certified that the association is formed with no profit motive and no commercial activity is involved in it's working.

certified that the office bearers are not paid from the funds of the association.

certified that the association would not engage in agitational activities.”

2.1 The assessee filed its return of income for the AY under consideration by declaring “NI” income by claiming exemption u/s 11 of the Act. The return filed by the assessee was processed u/s 143(1) of the Act and thereafter, after following due procedure assessment was completed u/s 143(3) of the Act, while doing so, the AO denied the exemption u/s 11 as claimed by the assessee. For denial of exemption u/s 11, AO observed that during the year assessee provided services to Hyderabad Metro Water Supply and Sewerage Board (HMWSSB) towards water quality testing and incurred expenditure with reference to the services provided by it. According to AO, assessee has not incurred any expenditure relating to charitable activity for the cause of education, medical aid or relief to poor and even not incurred any expenditure for the general public utility. He further observed that the activity of the assessee is professional/technical services not in accordance with the aim and object of the society and the activity carried out by the assessee is not for charitable purposes. As the assessee received the revenue receipts from services rendered to HMWSSB, the activity of the assessee, principally, commercial in nature, hence, assessee is not eligible for exemption u/s 11 of the Act.

3. On appeal, Id. CIT(A) confirmed the order of the AO by observing that on perusal of income and expenditure statement, it is seen that assessee spent all the amounts on items like water quality consumables, stipend, TA DA expenses and such similar expenses and all the activities of the assessee are relating to water testing only. He was of the view that this activity definitely falls within the ambit of commercial activity. He observed that when the testing of water is considered as charitable activity, in the similar way, diagnostic centres, road contracts and other such businesses will have to be considered as charitable activities.

4. Being aggrieved, the assessee carried the matter in appeal before the ITAT.

5. Before us, Id. Counsel for the assessee submitted that assessee society existed with an aim and object to contribute to the health of the people and it is a charitable in nature, hence, assessee is entitled for exemption u/s 11 of the Act. He further submitted that assessee society is a non-profitable organisation and therefore the receipts received by the assessee from testing of the water cannot be considered as commercial activity. Further, he submitted that assessee society is working for the health of general public, particularly, testing of the water and helping the HMWSSB and HMWSSB in turn, supplying good quality of water to the public at large in the city of Hyderabad. He, therefore,

submitted that the activity carried out by the assessee is to be considered as a charitable activity. Referring to the page 134 of the paper book, Id. Counsel submitted that the receipts of the assessee are income from projects of Rs. 4,43,138/- and expenses of Rs. 4,36,500/-. He submitted that income from services was Rs. 50,98,1390/- while expenditure was Rs. 50,73,799/- and the net income available to the assessee is only Rs. 50,850/- after deducting the expenditure. Therefore, the services rendered by the assessee to HMWSSB cannot be considered as commercial services as the assessee society render services as per its objects, though, it charges for services, it cannot be considered as commercial activity.

6. Ld. DR, on the other hand, besides relying on the orders of revenue authorities, submitted that the assessee is working for HMWSSB and collecting service fee like any other institution, therefore, the receipts received by the assessee are in commercial nature and not eligible for claiming exemption u/s 11 of the Act. He, therefore, submitted that the orders of revenue authorities may be upheld.

7. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. The assessee society is an institution of public health systems registered u/s 12A of the Act, on 19/12/1990. The main object of the assessee is to study,

training and research in the field of the health system, health policy, health services management etc. Assessee society existed to contribute to the health of the people. Though, the assessee is having as many as objects, the main activity of the assessee is water testing. For this purpose, assessee joined with HMWSSB and for the services rendered, assessee has received an amount of Rs. 50,98,139/- and incurred expenses of Rs. 50,73,799/- during the year under consideration. The assessee also participated in various projects related to public health such as prevention of water borne diseases in urban slums of Hyderabad, risk assessment to establish health based targets for drinking water safety plans in Hyderabad, technical support for community health and medical provision impact of Nipples (Champion) Trial, air pollution and cause of deaths in Hyderabad, etc. The assessee has received income from projects of Rs. 4,43,138/- and expenses incurred Rs. 4,36,500/-. From the above, it is very clear that assessee society is not working for the profit and it is only collecting fees for the services rendered. In view of the above observations, we are of the opinion that assessee's services cannot be considered as commercial activity. The assessee, in fact, is working for HMWSSB for the purpose of testing water and helping/advising HMWSSB, in turn, supply of good quality of water to the public at large in the city of Hyderabad. Quality water is very essential for the health of the public, so, assessee is contributing for the good health of the public at large. Therefore, the activity of the assessee

cannot be considered as commercial activity. Ld. CIT(A) observed that there is no difference between assessee and other organisations such as diagnostic centres and road contracts and other such businesses. The diagnostic centres and road contracts are mainly based on the profit motive organisations, they concentrate on the profit making and not service oriented. In the case of the assessee, it is only service oriented i.e. taking care of public health, for which joined hands with HMWSSB for better supply of quality water to the public at large. Therefore, the comparison made by the CIT(A) is not proper. We find that the CIT(A) himself accepted that all the activities of the assessee relate to water testing only. From the observation of the CIT(A), it is clear that the activity of the assessee is only water testing, which is carried out in assessee's laboratory, which monitors water quality in the reservoirs and slum areas. The assessee's organisation also recognized by DSIR, SIRO, WHO and State Govts. It is a fact that assessee has participated in various research and consultation projects, education and training programmes etc. Therefore, the activity of the assessee is a charitable in nature, as the activity carried out by the assessee comes within the ambit of advancing of any other object of general public utility. In this connection, we refer to the provisions of section 2(15) of the Act, as under:

“charitable purpose” includes relief of the poor, education, 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.”*

7.1 From the reading of the above, assessee's activity comes within the purview of exceptions provided sub-section (15) of sub-clause (i) for the reason that the activity of the assessee is testing of the water quality, which monitors quality in reservoirs and slum areas, for that, assessee has charged some fee and almost the entire fee was spent towards testing activity, as admitted by the CIT(A) himself. Testing of water and thereby supplying good quality of water contribute to health of the people. Therefore, the activity carried out by the assessee as per its object to take care of health of the people and the activity of the assessee has to be considered as advancing of general public utility. Therefore, the assessee is eligible for exemption u/s 11 of the Act. In view of the above observations, we hold that the

assessee is entitled for exemption u/s 11 of the Act. Accordingly, the grounds raised by the assessee on this issue are allowed.

10. In the result, appeal of the assessee is allowed.

Pronounced in the open Court on 28th June, 2018.

Sd/-
(B. RAMAKOTAIAH)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Hyderabad, Dated: 28th June, 2018

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Copy to:-

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- 2) ITO (Exemptions) -2 Aayakar Bhavan, Basheerbagh, 2nd Floor, Hyderabad.*
- 3) CIT(A) – 9, Hyderabad.*
- 4) Pr. CIT - 6, Hyd.*
- 5) The Departmental Representative, I.T.A.T., Hyderabad.*
- 6) Guard File*