

Sale of products while developing special skills in women wasn't commercial activity by trust

Summary – The High Court of Bombay in a recent case of Women's India Trust., (the Assessee) held that where motive of assessee is not generation of profit but to provide training to needy women in order to equip or train them and make them self-confident and self-reliant and occasional sales or trust's own fund generation was for furthering objects of trust, proviso to section 2(15) would not apply

Facts

- Assessee was a trust formed to carry out the object of education and development of natural talents of the people having special skills, more particularly, the women in the society.
- In the process, some finished products such as pickles, jams, etc. were produced, which assessee sold through shops, exhibitions and personal contacts.
- The motive of the assessee was not generation of profit but to provide training to the needy women in order to equip or train them and make them self-reliant and self-confident.
- During assessment, the Director of Income-tax held that proviso to section 2(15) would be applicable which emphasised that the advancement of any other object of general public utility would not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business.
- On appeal, the Tribunal held that the activities undertaken by the assessee were not in the nature of trade, commerce or business and, therefore, proviso to section 2(15) would not apply.
- On revenue's appeal before the High Court:

Held

- The Tribunal found that the trust may be set up for advancement of any other object of general public utility, but that will not cease to be charitable purposes in this case, because, the activities in which the trust is involved cannot be termed as carrying on of trade, commerce or business. This is to impress upon the women the need to be self-reliant and self-supporting and to instill in them the confidence that they can make a livelihood for themselves if they rely on their skills that the activity has been undertaken. It does not partake the character of trade, commerce or business nor of rendering of any service in relation thereto. It is only to teach or impart skills and to instill confidence that the produced goods or articles are sold. In the circumstances, the Tribunal took a view that occasional sales or the trust's own fund generation are for furthering the objects but not indicative of trade, commerce or business. In the circumstances, the proviso does not apply.
- Considering the fact that the trust has been set up and is functional for the past several decades and it has not deviated or departed from any of its state object and purpose, utilisation of the income, if at all generated, does not indicate carrying on of any trade, commerce or business. The Tribunal's

view deserves to be upheld. It is a possible view and cannot be termed as perverse. The view is taken on an overall consideration and bearing in mind the functions and activities of the trust. In such circumstances, it is not vitiated by any error of law apparent on the face of the record. As a result of this discussion, the appeal does not raise any substantial question of law and, therefore, it must be dismissed. It is accordingly dismissed.