

## **No denial of exemption just because society earned profit while carrying out charitable activities**

**Summary – The Indore ITAT in a recent case of Madhya Pradesh Madhyam, (the Assessee) held that where assessee-society was engaged in activities of publication of newspaper and complementary publication to provide information regarding Government welfare schemes to general public and its activities had not changed at all since its inception and it was fully eligible for exemption under sections 11 and 12 and, further, income generated by assessee was utilized fully for purposes of objects of assessee, Assessing Officer was not justified in holding that assessee was involved in carrying on activity in nature of trade, commerce or business**

### **Facts**

- The assessee-society, constituted by State Government, was engaged in activities of publication of weekly newspaper under the name of 'Rozgar Aur Nirman', complementary publication for the publicity of welfare activities of State Government and its enterprises and production and distribution of other materials, and making all the efforts, which were needed, necessary and complementary for the fulfilment of above mentioned objectives. The assessee had shown gross receipts of certain amount and revenue expenditure of certain amount resulting into a surplus of income over expenditure of certain amount. However, the assessee had claimed the benefit under section 11 by considering the capital expenditure as application of funds for charitable purposes.
- The Assessing Officer observed that the assessee was engaged in the activities in the nature of trade, commerce and business and also rendering the services in relation to its business by charging fee and other consideration for the services rendered. The assessee had shown operating receipts by sale of newspaper and advertisement in newspaper, sale of books, DTP and designed work and commission on other advertisement etc. for State Government departments and PSUs as well as other receipts in the form of interest on FDRs, interest on loans etc. From the nature of the receipts, it was noticed that the assessee was earning income from selling books and newspaper and from advertisements. Thus, he held that the assessee's case fell under first proviso to section 2(15) and, therefore, the activities of the assessee of selling newspaper, books and providing other services by charging fees was undoubtedly a commercial activity which could not be considered for charitable purposes in view of first proviso to section 2(15). Accordingly, he denied the claim of exemption under section 11.
- On appeal, the Commissioner (Appeals) also confirmed the order of the Assessing Officer.
- On second appeal:

### **Held**

- The assessee's activities have not been changed at all since the date of its inception and the assessee was fully eligible for exemption under sections 11 and 12. The assessee-society was constituted by the State Government for the benefit of general public to provide them information

regarding employments, education institutions and other information of the Government Schemes. The objectives of the assessee-society are publication of weekly newspaper namely 'Rozgar Aur Nirman' to supply the material related to advertisement of public welfare schemes of Government of Madhya Pradesh and its undertaking and do such all other Acts that are necessary for achievement of the objectives of the society. Therefore, the revenue authorities are not justified in holding that the assessee was involved in carrying on the activity in the nature of trade, commerce or business. Prior to the introduction of the proviso to section 2(15), there was no dispute that the assessee was established for charitable purposes. The main object of the assessee is for the benefit of general public to provide them information regarding employments, education institutions and other information of the Government schemes, therefore, there is force in the contention of the assessee that profit-making is not the driving force or objective of the assessee and income generated by the assessee does not find its way into the pockets of any individuals or entities. but it is to be utilized fully for the purposes of the objects of the assessee. Further, the expression 'charitable purpose' should be construed not in a vacuum, but in the specific context of section 10(23C)(iv), which specifically deals with the income received by any person on behalf of, *inter alia*, an institution established for charitable purposes. Therefore, the meaning of the expression 'charitable purposes' has to be examined in the context of section 10(23C)(iv). Since the object of promoting employments/educational institutions/Government schemes for the general public is a charitable purpose, the expression 'charitable purpose', as defined in section 2(15) cannot be construed literally and in absolute terms and it has to take colour and be considered in the context of section 10(23C)(iv). On consideration of these facts the authorities below are not justified in disallowing the entire exemption. Therefore, the Assessing Officer is directed to delete the disallowances.