

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद ।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"D" BENCH, AHMEDABAD**  
*(Conducted through Virtual Court)*  
**BEFORE SHRI RAJPAL YADAV, VICE-PRESIDENT**  
**AND**  
**SHRI AMARJIT SINH, ACCOUNTANT MEMBER**

**ITA No.372 to 374/Ahd/2019**

निर्धारण वर्ष/ Asstt.Year : 2013-14 to 2015-16

DCIT (Exemptions) Cir.2, Ahmedabad.	Vs.	Paramount Charity Trust Paramount Complex Nr.Natubhai Circle Gotri Road, Race Course Vadodara 390 007. PAN : AAATP 2338 T
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<b>(Applicant)</b>		<b>(Responent)</b>
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Revenue by :	Shri S.S. Shukla, Sr.DR
Assessee by :	Shri Mehul Patel, AR

सुनवाई की तारीख/Date of Hearing : 09/04/2021

घोषणा की तारीख /Date of Pronouncement: 18/05/2021

**आदेश/ORDER**

**PER RAJPAL YADAV, VICE-PRESIDENT:**

The above three appeals are directed at the instance of the Revenue against the orders of the Id.CIT(A)-9, Ahmedabad of even dated i.e. 12.12.2018 for the above three assessment years. All these three appeals are disposed of by this common order for the sake of convenience, since identical issue is raised in all these appeals.

2. Sole identical issue in all these appeals is that the Id.CIT(A) has erred in allowing exemption under section 11 of the Income Tax Act, 1961, since the issue of eligible of the registration under section 12A of the Act has not attained finality.

3. As aforesaid, as the facts and issue raised in all the cases are similar except quantum, we take the facts from ITA No.372/Ahd/2019 for disposal of all these appeals.

4. Brief facts of the case, which can be noticed from the relevant assessment order is that assessee is a public charitable trust and registered with Charity Commissioner under No.E/2469/Vadodara dated 15.6.1997 and thus granted recognition under section 80G of the Act. It stated to be engaged in charitable activities viz. advancement of education, health, medical, relief to the poor, help affected people in times of natural calamities. The assessee is running a diagnostic centre in the name “Paramount Diagnostic and Research Centre” (MRI/CT scan centre). The assessee was granted registration under section 12A(a) on 1.1.1982 and till assessment year 2011-12, it was assessed in the status of charitable trust. Subsequently, vide order dated 30.9.2014, the Id.CIT-I, Baroda cancelled the registration granted to the assessee u/s.12A of the Act by observing that the trust’s activities were not being carried out in accordance with the objectives as declared for the purpose of section 12AA. Accordingly assessment under section 143(3) was finalized after rejection of exemption under section 11 of the Act and net surplus as per income expenditure statement was determined as income of the assessee. Assessee submitted that the department has accepted the claim of the assessee since more than 20 years and entitled to exemption under section 11 as the activities fall within the purview of “charitable purpose” defined in section 2(15) of the Act. The Id.AO did not accept the explanation of

the assessee. He observed that income earned from diagnostic centre viz. Paramount Diagnostic and Research Centre (MRI/CT Scan) was not used for charitable purpose, rather it was allowed to be accumulated and applied for the business growth of the trust, which could not be termed as application of fund for charitable purpose. In view of the same, and also of view that no registration was granted to the assessee-trust, the claim of exemption under section 11 was rejected, and the income over expenditure was treated as income from business. Aggrieved by the order of the AO, the assessee went in appeal before the Id.first appellate authority. The Id.CIT(A) while considering the facts of the case allowed the claim of the assessee and directed the AO to treat the assessee as registered trust under section 12A and allow claim of the exemption under section 11 and 12 of the Act. The Id.CIT(A) relied on the order of the ITAT passed in the assessee's case in ITA No.1548/Ahd/2018 order dated 27.4.2018, whereby identical issue was agitated. Dissatisfied with the order of the Id.CIT(A) Revenue now is in appeals before the Tribunal for all these three years.

5. Before us, the Id.DR supported orders of the AO; whereas the Id.counsel for the assessee reiterated submissions made before the lower authorities and also supported the order of the Id.CIT(A). He further submitted that the department has accepted the assessee as a charitable institution for the last 20-25 years, and the assessee has been assessed accordingly all through these years. No facts and circumstances have been changed in the case of the assessee so as to alter the consistent view taken by the department year after year.

There is no justification with the department to reject the claim of the assessee in the present assessment years. The Id.CIT(A) has considered all the aspects and based on the order of the Tribunal in the assessee's own case for earlier years on the similar issue, rightly allowed the claim of the assessee. The Id.counsel for the assessee submitted that earlier order of the Tribunal directing the Revenue to grant registration to the assessee and allow exemption under section 11 was confirmed upto the level of Hon'ble Gujarat High Court, and thereafter SLP preferred by the Department before the Hon'ble Supreme Court was also stand dismissed, and therefore, the impugned issue attained finality. He placed on record copy of order of ITAT in ITA No.3119/Ahd/2014 dated 27.2.2018, judgment Hon'ble Gujarat High Court in Tax Appeal No.1035 of 2018 order 21.8.2018 confirming the order of the Tribunal and copy of SLP filed by the Department in SLP (Civil) Diary No.5855 of 2019 dated 8.3.2019 by which Hon'ble Supreme Court dismissed the same. Therefore, since the issue got finality, orders of the Revenue do not sustain, and accordingly, all the appeals of the Revenue in the present years liable to be dismissed.

6. We have considered rival submissions and gone through the material available on record. We have also gone through order of the Tribunal, Hon'ble Gujarat High Court and order of the Hon'ble Supreme Court dismissing the SLP filed of the Departments. We find that the issue agitated before us for consideration is, whether the assessee is entitled for registration under section 12AA of the Act and consequent benefit of exemption under section 11 of the Act. We do

not find it necessary to delve into issue raised in these years again, as the Tribunal on similar set of facts in the assessee's own case examined the issue, and allowed claim of the assessee; wherein one of us (Vice-President) was party and author. It is pertinent to mention that, the issue of charitable status of the assessee and allowance of exemption under section 11 has been accepted by the department consistently for the last more than 20 years. However, in the Asstt.Year 2011-12, when the claim of the assessee rejected by the Department, the same was challenged before the Tribunal, and the Tribunal after detailed discussion allowed the claim of the assessee and confirmed by the Hon'ble High Court. The factum of dismissal of appeal of the Revenue for earlier years on the similar issue upto the level of Hon'ble Supreme Court has not been disputed by the Department. Therefore, the issue attained finality. Further, the principle of consistency demands that view taken in one year should be followed in subsequent years, unless facts and circumstances, and also legal position justify departure therefrom. No material has been brought on record by the Id.DR to demonstrate that the view taken by the Tribunal in the earlier years was on the different set of facts. Admittedly, there is no change in facts and circumstances as compared to the previous years and subsequent years, and therefore, principle of consistency squarely applicable to the present case on hand. Therefore, following our earlier order in the assessee's own case cited (supra), based on which the Id.CIT(A) has allowed the appeal of the assessee and directed the AO to treat the assessee as a charitable institution and allow exemption under section 11 of the Act, we do not

any merit in the appeals of the Revenue, which are accordingly dismissed.

7. In the result, all appeals of the Revenue are dismissed.

**Order pronounced in the Court on 18<sup>th</sup> May, 2021 at Ahmedabad.**

**Sd/-  
(AMARJIT SINGH)  
ACCOUNTANT MEMBER**

**Sd/-  
(RAJPAL YADAV)  
VICE-PRESIDENT**