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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 20.01.2020

+ ITA 1071/2018

THE COMMISSIONER OF INCOME TAX - EXEMPTION

..... Appellant

Through: Mr. Abhishek Maratha, Senior
Standing Counsel with Mr. Pratyaksh
Gupta and Ms. Nupur Sharma,
Advocates.

versus

ASSOCIATION OF THIRD PARTY ADMINISTRATORS

..... Respondent

Through: Mr. Ravi Kant Chadha, Senior
Advocate with Mr. Siddhant
Chaudhary, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

SANJEEV NARULA, J (Oral):

1. The Commissioner of Income Tax – Exemption has filed the present appeal under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) assailing the order dated 19.04.2018 passed by the Income Tax Appellate Tribunal (hereinafter referred to as the ‘ITAT’). The present appeal proposes substantial questions of law, questioning the correctness of the findings of ITAT in relation to the activities of the assessee in the context of eligibility to get registration as a charitable organization under Section 12AA of the Act.



2. The Respondent-Association of Third Party Administrators (ATPA) filed an application on 12.12.2005 seeking registration under Section 12A of the Act. The said application was rejected by DIT(E), vide order dated 30.06.2006 holding that certain objects of the trust were not charitable and trustees had discretion in applying the trust's income to any of the objects. Aggrieved with the aforesaid findings, assessee filed an appeal before ITAT which resulted in order dated 30.04.2017, restoring the matter to the file of DIT(E) with direction to pass a speaking order as to which of the objects were of non-charitable nature, after giving opportunity of hearing to the assessee. In compliance with the directions of the ITAT, CIT(E) after examining the records, declined the grant of registration to the assessee, inter alia, on the ground that ATPA is aiming at industry status for Third Party Administrator (TPA) business, and is working for mutual benefit of its members. Aggrieved with the aforesaid order, the assessee preferred an appeal before ITAT. The ITAT after examining the records and having regard to the objects of the assessee, allowed the appeal in favour of the assessee and overturned the order of CIT(E). Consequently CIT(E) was directed to provide registration to the assessee under Section 12AA of the Act.

3. Mr. Abhishek Maratha, learned Senior Standing Counsel assisted by Mr. Pratyaksh Gupta, Junior Standing Counsel has argued that the reasoning given by the ITAT is flawed. The benefit of the activities of the association is limited to identifiable individual groups and it cannot be called a public charitable institution. It was further argued that profit earning motive of the assessee trust is the predominant object, which can be discerned by reading



the object clause of the trust deed. During the course of the arguments, the attention of the learned counsel was drawn to the decisions of the Supreme Court in the case of *Additional Commissioner of Income Tax, Gujarat v. Surat Art Silk Cloth Manufactures Association* (1979) 13 CTR (SC) 378 and *Director of Income Tax v. Bharat diamond Bourse* (2003) 259 ITR 0280. Mr. Maratha then sought time to go through the aforesaid decisions and address the Court on the same aspect. Today, Mr. Maratha argues that neither the CIT (E), nor the ITAT had passed the orders in line with the aforesaid judgments and while applying the test prescribed by the Constitution Bench of Supreme Court in the case of *Surat Art Silk* (supra), the Court has to independently consider the facts of each case and come to a conclusion as to whether the assessee would be entitled to the benefit of Section 12AA of the Act. Mr. Maratha then referred to the aims and objects of the trust and submitted that the same are in the nature of advancement of the business of health insurance for TPAs to get the industry status to TPA business and it was thus clear that the intent was to earn profit. He submitted that the income of TPAs is assessable to income tax and is not exempted under the Act. Further the insurance business too is assessable to income tax and is not exempted and, therefore, having regard to the objects of the trust, the ITAT has wrongly granted the benefit to the Respondent assessee.

4. We have carefully examined the record and given due consideration to the contentions urged by Mr. Maratha. At the initial stage of registration, we have to examine whether the proposed activities of the assessee can be considered charitable within the meaning of Section 2 (15) of the Act. On



an application for registration of a trust or institution made under Section 12AA, the Principal Commissioner or Commissioner shall call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution; and the compliance of such requirements of any other law for the time being in force by the trust or institution, as are materials for the purpose of achieving its objects, and he may also make such inquiries as he may deem necessary in this behalf. Once he is satisfied about the objects of the trust or institution, and genuineness of its activities, he shall pass an order under the said provision. On this aspect, the Tax Authorities have looked into the aims and objects of the trust. Since the same is the backbone of the decision impugned before us, we consider it apposite to extract the same hereinunder:

“6. The aims and objects of the Trust shall be:

(i) To organize and arrange all licensed Third Party Administrators (TPAs) to be members of the Trust for mutual betterment of the TPA business;

(ii) To thrive for an industry status for TPA business;

(iii) To draft guidelines, procedures, documents for implementation of the above;

(iv) To organize seminars, training and educational sessions for all employees/associates of member TPAs;

(v) To devise and develop new products related to health insurance or insurance companies, TPAs and other related parties;



(vi) To regulate and structure the TPA fees and to represent to insurance companies and other related parties, taking out insurance policies, on issues relating to TPAs as also others concerned with the insurance industry;

(vii) To organize and regulate the hospital network of TPAs and implement common procedures, standardized billing and standardized tariff and other related documentations;

(viii) To represent to regulatory bodies, Govt authorities, on behalf of member TPAs on matters related to TPA/insurance business with the object of improvement and development of TPA industry;

(ix) To create common data bank, exchange information pertaining to claim statistics, enrollment statistics and other related matters pertaining to member TPAs;

(x) To initiate legal proceedings against defaulting hospitals, fraudulently insured and such other persons involved in malpractices or frauds pertaining to claims, cashless mechanism, insurance underwriting, etc.;

(xi) To promote and create awareness for healthy living and to bring together all persons who subscribe to this common cause;

(xii) To educate members about health insurance and comprehensive medical services;

(xiii) To interact with various regulatory and other public and private sectors bodies for framing health-related and other beneficial schemes for people in general and those below the poverty line, and also participate in implementation of such schemes whether as consultants, advisors or otherwise. The Trust may also devise such packages as are of benefit to its members;

(xiv) To publish books, periodicals and other literature in any



subject of medical science, healthy living and insurance which may be of interest to its members;

(xv) To document all relevant information pertaining to health and hygiene;

(xvi) To advise and if needed assist the Government in the formation and implementation of policies relating to health and other areas of insurance;

(xvii) To promote education, research, training and professional development on health related issues;

(xviii) To organize and promote conferences, seminars, lectures, workshops, public debates and exhibitions in furtherance of the objectives of the Trust;

(xix) To offer awards, prizes, scholarships and stipends in promotion of the aims and objects of the Trust;

(xx) To provide need-based grants and donations;

(xxi) To cooperate and collaborate with other national institutions and agencies in furtherance of the objectives of the Trust;

(xxii) To cooperate with institutions and associations having similar aims and objects;

(xxiii) To borrow moneys for carrying out the objects of the Trust and for that purpose to create security by mortgage or charge or pledge or hypothecation of any immovable property of the Trust;

(xxiv) To establish any fund to further the interest of the Trust;

(xxv) To establish an institute for training and dissemination of knowledge among Third Party Administrators;



(xxvi) To undertake programmes which ensures raising of income levels and expanding employment opportunities of the weaker sections of Trust, particularly of those living below the poverty line and women by involving participants in the planning, implementation and maintenance of activities taken up;

(xxvii) To organize disadvantaged section of Trust and take steps for increasing their level of awareness with regard to the programme and contents and facilities therein under government/non government programme, legal provisions etc. and also for increasing their bargaining power by promoting co-operative and group action;

(xxviii) To raise or acquire funds or property from Central Government, State Government, Foreign Agencies, Non-Government Agencies, Charitable Trusts by way of donations or grants or contribution or by taking loan from public and private Financial Institutions and Banks. The funds, properties, assets and all other resources, present and future of the Trust shall be utilized for any or all the purposes or objects of the Trust as stated above and also for all other similar activities in furtherance of ideals of truth and non-violence;

(xxix) To acquire by purchase or otherwise hold on lease, hire or rent or by exchange any movable or immovable property or properties;

(xxx) To organize and maintain residential hostels, restaurants and other amenities for its members;

(xxxi) To maintain and keep in good repair all buildings and common services;

(xxxii) To constitute or cause to be constituted Regional Centres at convenient places to promote the objectives of the Trust;

(xxxiii) To sell, give on lease or hire any property of the Trust;



(xxxiv) To promote National Unity and International Peace and Amity;

(xxxv) To aim towards Communal and Social Harmony and Brotherhood;

(xxxvi) To undertake evaluation of Economic and Social projects;

(xxxvii) To engage in any other lawful activity which may be conducive to the promotion or attainment of any or all objects of the Trust.”

5. The CIT (E) proceeded to decline the registration relying upon the aforementioned aims and objects, which have been read by the ITAT to be sufficiently compliant in order to secure registration under Section 12A of the Act. The ITAT has examined several decisions on this aspect, including ***CIT v. Jaipur Stock Exchange Ltd.*** 2015 3 77 ITR 469, ***CIT (E) v. Yamuna Expressway Industrial Authority*** (2017) 395 ITR 18 and the decision of this Court in ***PHD Chambers of Commerce and Industry v. DIT (E)*** (2014) 265 CTR (Del.) 318 and also ***CIT v. Andhra Chamber of Commerce*** (1965) 55 ITR 722 (SC) and has come to the conclusion that the assessee is entitled to the registration. The relevant portion of the order of the ITAT has been extracted hereinunder:

“12. In view of the decision rendered by Hon'ble Supreme Court and Hon'ble High Courts in the judgment discussed in the preceding paras, we are of the considered view that the applicant trust cannot be said to be engaged only for TPA members and their employees and working for mutual benefits of its members, but its objects are certainly aimed at providing to the general public in the field of insurance and health facilities. No doubt,



activities of the TPA which is a trade association for TPA business for the benefits of its members and non-members, but it is established to protect the interest of TPA members and work towards developing new products related to health insurance or insurance company and to structure the TPA fees, which is like Chambers of Commerce and Industry. So it is certainly providing services to the insurance sector, which in return benefits the public at large. Moreover, at this stage, the Commissioner (E) was not empowered to examine whether the assessee was entitled for exemption u/s 11 or 12 as this issue was required to be examined at the time of assessment.

13. In view of what has been discussed above, we are of the considered view that ld. CIT has erred in rejecting the application for registration u/s 12AA of the Act filed by the assessee. Consequently, the appeal filed by the assessee is allowed directing the ld. CIT to provide registration u/s 12AA to the assessee.”

6. The Constitution Bench of the Supreme Court in the case of ***Surat Art Silk Cloth Manufacturers Association*** (supra) has laid down the test to decide whether a trust or institution is charitable. The relevant portion of the said judgment reads as under:

6. But even if such a contention were permissible, we do not think there is any substance in it. The law is well settled that if there are several objects of a trust or institution, some of which are charitable and some non-charitable and the trustees or the managers in their discretion are to apply the income or property to any of those objects, the trust or institution would not be liable to be regarded as charitable and no part of its income would be exempt from tax. In other words, where the main or primary objects are distributive, each and everyone of the objects must be charitable in order that the trust or institution might be upheld as a valid charity - Mohammed



*Ibrahim Riza v. CIT [1930] LR 57 IA 260 and East India Industries (Madras) Pvt. Ltd. v. CIT [1967] 65 ITR 611. 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 or institution from being a valid charity - CIT v. Andhra Chamber of Commerce [1965] 55 ITR 722. **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.** It was on an application of this test that in CIT v. Andhra Chamber of Commerce (supra), the Andhra Chamber of Commerce was held to be a valid charity entitled to exemption from tax. **The Court held that the dominant or primary object of the Andhra Chamber of Commerce was to promote and protect trade, commerce and industry and to aid, stimulate and promote the development of trade, commerce and industry and to watch over and protect the general commercial interests of India or any part thereof and this was clearly an object of general public utility and though one of the objects included the taking of steps to urge or oppose legislation affecting trade, commerce or manufacture, which, standing by itself, may be liable to be condemned as non-charitable, it was merely incidental to the dominant or primary object and did not prevent the Andhra Chamber of Commerce from being a valid charity. The Court pointed out that if "the primary purpose be advancement of objects of general public utility, it would remain charitable even if an incidental entry into the political domain for achieving that purpose, e.g., promotion of or opposition to legislation concerning that purpose, was contemplated". The Court also held that the Andhra Chamber of Commerce did not cease to be charitable merely because the members of the Chamber were incidentally benefited in carrying out its main charitable purpose. The Court relied very strongly on the decisions in Commissioner of Inland Revenue v. Yorkeshire Agricultural Society [1920] 13 Tax Case 58 and Institution of***



Civil Engineers v. Commissioner of Inland Revenue [1931] 16 Tax Case 158 for reaching the conclusion that merely because some benefits incidentally arose to the members of the society or institution in the course of carrying out its main charitable purpose, it would not by itself prevent the association or institution from being a charity. It would be a question of fact' in such case "whether there is no such personal benefit, intellectual or professional, to the members of the society or body of persons as to be incapable of being disregarded.

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*17. The next question that arises is as to what is the meaning of the expression "activity for profit". Every trust or institution must have a purpose for which it is established and every purpose must for its accomplishment involve the carrying on of an activity. The activity must, however, be for profit in order to attract the exclusionary clause and the question, therefore, is when can an activity be said to be one for profit? The answer to the question obviously depends on the correct connotation of the proposition "for". This proposition has many shades of meaning but when used with the active participle of a verb it means "for the purpose of" and connotes the end with reference to which something is done. It is not, therefore, enough that as a matter of fact 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 or, in other words, the predominant object of the activity must be making of profit. **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 the charitable purpose or for the purpose of carrying out the charitable purpose, it would not be incorrect to say as a matter of plain*



English grammar that the charitable purpose involves the carrying on of such activity, but the predominant object of such activity must be to subserve 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, as pointed out by one of us (Pathak, J.) in Dharmadeepti v. CIT (supra), 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. This interpretation of the exclusionary clause in section 2, clause (15), derives considerable support from the speech made by the Finance Minister while introducing that provision. The Finance Minister explained the reason for introducing this exclusionary clause in the following words:

"The definition of 'charitable purpose' in that clause is at present so widely worded that it can be taken advantage of even by commercial concerns which, while ostensibly serving a public purpose, get fully paid for the benefits provided by them namely, the newspaper industry which while running its concern on commercial lines can claim that by circulating newspapers it was improving the general knowledge of the public. In order to prevent the misuse of this definition in such cases, the Select Committee felt that the words 'not involving the carrying on of any activity for profit' should be added to the definition."

It is obvious that the exclusionary clause was added with a view to over-coming the decision of the Privy Council in the Tribune case where it was held that the object of supplying the community with an organ of educated (public opinion by publication of a newspaper was an object of general public utility and hence charitable in character, even though the activity of publication of the newspaper was carried on on commercial lines with the object of earning profit. The publication of the newspaper was an activity engaged in by the trust for the purpose of carrying out its charitable purpose and



*on the facts it was clearly an activity which had profit-making as its predominant object, but even so it was held by the Judicial Committee that since the purpose served was an object of general public utility, it was a charitable purpose. It is clear from the speech of the Finance Minister that it was with a view to setting at naught this decision that the exclusionary clause was added in the definition of "charitable purpose". **The test which has, therefore, now to be applied is whether the predominant object of two activities involved in carrying out the object of general public utility is to subserve this charitable purpose or to earn profit.** Where profit-making is the predominant object of the activity, the purpose, though an object of general public utility, would cease to be a charitable purpose. **But where the predominant object of the activity is to carry out the charitable purpose and not to earn profit, it would not lose its character of a charitable purpose merely because some profit arises from the activity.** The exclusionary clause does not require that the activity must be carried on in such a manner that it does not result in any profit. It would indeed be difficult for persons in charge of a trust or institution to so carry on the activity, that the expenditure balances the income and there is no resulting profit. That would not only be difficult of practical realisation but would also reflect unsound principle of management. We, therefore, agree with Beg, J. when he said in Sole Trustee, Loka Sikshana Trust case (supra) that **"if the profits must necessarily feed a charitable purpose under the terms of the trust, the mere fact that the activities of the trust yield profit will not alter the charitable character of the trust. The test now is more clearly than in the past, the genuineness of the purpose tested by the obligation created to spend the money exclusively or essentially on charity"**. The learned Judge also added that the restrictive condition "that the purpose should not involve the carrying on of any activity for profit would be satisfied if profit-making is not the real object" (emphasis supplied). We wholly endorse these observations.*

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19. There is, however, one comment which is necessary to be made whilst we are on this point and that arises out of certain observations made by this Court in Sole Trustee, Loka Sikshana Trust case (supra) as well as Indian Chamber of Commerce case (supra). It was said by Khanna, J. in Sole Trustee, Loka Shikshana Trust case:

"... if the activity of a trust consists of carrying on a business and there are no restrictions on its making profit, the court would be well justified in assuming in the absence of some indication to the contrary that the object of the trust involves the carrying on of an activity of profit."

And to the same effect, observed Krishna Iyer, J. in Indian Chamber of Commerce case (supra) when he said:

"...An undertaking for a business organisation is ordinarily assumed for profit unless expressly or by necessary implication or by eloquent surrounding circumstances the making of profit stands loudly negated ...A pragmatic condition, written or unwritten proved by a proscription of profits or by long years of invariable practice or spelt from some strong surrounding circumstances indicative of anti-profit motivation - such a condition will nullify for charitable purpose..."

*Now we entirely agree with the learned Judges who decided these two cases **that activity involved in carrying out the charitable purpose must not be motivated by a profit objective but it must be undertaken for the purpose of advancement or carrying out of the charitable purpose.** But we find it difficult to accept their thesis that whenever an activity is carried on which yields profit, the inference must necessarily be drawn, in the absence of some indication to the contrary, that the activity is for profit and the charitable purpose involves the carrying on of an activity for profit. We do not think the Court would be justified in drawing any such inference merely because the activity results in profit. **It is in our opinion 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 having regard to all the facts and circumstances of the case, 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.

(emphasis supplied)

7. Further, the Supreme Court in the case of ***Bharat Diamond Bourse*** (supra), referring to the Constitution Bench decision in the case of ***Surat Art Silk Cloth Manufacturers Association*** (supra), while dealing with the similar question relating to registration of an institute for charitable purpose, observed as under:

“The decision of the Constitutional Bench of this Court in Addl. CIT v. Surat Art Silk Cloth Mfrs. Association [1980] 2 SCC 31 really clinches the issue. The assessee in Surat Art Silk Cloth Mfrs. Association's case (supra) was an association established to promote commerce and trade in Art Silk Yarn, Raw Silk, Cotton Yarn, Art Silk Cloth, Silk Cloth and Cotton Cloth. Its objects, as evidenced from the memorandum of association, included, inter alia, carrying on business in Art Silk Yarn, Raw Silk, Cotton Yarn, Art Silk Cloth, Silk Cloth, and Cotton Cloth belonging to and on behalf of its members as well as buying and selling and dealing in all kinds of cloth and yarn belonging to and on behalf of its members. The Constitutional Bench of this Court held that, if there are several objects of the institution, some of which are charitable and some non-charitable, and the trustees or the managers in their discretion may apply the



*income of the institution of those objects, the trust or institution would not be liable to be regarded as charitable and no part of its income would be exempted from tax. Where the main or primary objects are distributive, each and every one of the object must be charitable in order that the trust be held as a valid charity. **But, if the primary or dominant purpose of the institution is charitable and another which, by itself, may not be charitable, but is merely ancillary or incidental to the primary or dominant object, it would not prevent the institution from validly being recognized as a charity. The test to be applied is, whether the object which is said to be non-charitable is the main or primary object of the trust or institution or it is ancillary or incidental to the dominant object which is charitable.** Reiterating its earlier view in *CIT v. Andhra Chamber of Commerce* [1965] 55 ITR 722, the Supreme Court said in *Surat Art Silk Cloth Mfrs. Association's case* (*supra*) that if the primary purpose is advancement of objects for general public utility, the institution would remain charitable, even if an incidental non-charitable object for achieving that purpose was contemplated. In the case of *Andhra Chamber of Commerce* (*supra*) it was held that a Chamber of Commerce did not cease to be charitable merely because the members of the chamber were incidentally benefited in carrying out its main charitable purpose. This Court approvingly followed the ratio in the case of *Commissioner of Inland Revenue v. Yorkshire Agricultural Society* [1928] 1 KB 611 and *Institution of Civil Engineers v. Commissioner of Civil Revenue* [1932] 1 KB 149 for reaching the conclusion that merely because some facilities incidentally arose to the members of a society or institution in the course of carrying out its main charitable purpose, that by itself would not prevent the institution from being a charity.*

*All subsequent judgments have noticed and followed the judgment of the Constitutional Bench in *Surat Art Silk Cloth Mfrs. Association's case* (*supra*) and the dominant purpose test evolved therein and applied them to the facts before them. Applying this dominant purpose test to the objects of the*



respondent-assessee it appears to us that there is no escape from the conclusion that it is validly recognized as an institution established for charitable purpose. The assessee's predominant objects are:

- "(i) To establish common facilities required to promote exports of diamonds from India and to provide for this purpose trading halls and other utilities at a central place for Indian Exporters and Overseas buyer to carry on trade and commerce in diamonds with speed and in secure conditions.*
- (ii) To establish and promote effective liaison between diamond trade and industry in India and abroad with a view to promoting their sales from India in International market.*
- (iii) To promote, advance, protect and develop trade, commerce and industry in India relating to exports and imports of diamonds and*
- (iv) To develop India as Modern and sophisticated diamond market by establishing and maintaining an international trading centre in India for all those engaged as manufacturers, traders, exporters and importers, brokers/commission agents of diamonds."*

These being the predominant objectives, we agree with the view taken by the Tribunal as well as the High Court that the assessee was rightly registered under section 11 by treating it as an institution established for charitable purpose within the meaning of section 2(15) of the Act."

(emphasis supplied)

8. Taking note of the aforesaid decisions, we find that the observations of



the ITAT to be in consonance with the view of the Supreme Court. The primary or dominant object of the trust satisfies the conditions laid down under Section 2 (15) of the Act. Even if some ancillary or incidental objects are not charitable in nature, the institution would still be considered as a charitable organisation. As held by the Supreme Court in the case of *DIT v. Bharat Diamond Bourse* (supra), merely because some facilities were beyond its main object, that by itself would not deprive the institution of the benefits of a charitable organisation. Reiterating its earlier view in *CIT v. Andhra Chambers of Commerce* (1965) 55 ITR 722 (SC), the Constitution Bench of the Supreme Court in *Surat Art Silk Cloth Manufacturers Association* (supra) held that if the primary purpose of advancement of objects is for general public utility, the institution would remain charitable, even if there are incidental non-charitable objects for achieving the said purpose.

9. Having given our thoughtful consideration to this issue, we are not persuaded by the submissions advanced by Mr. Maratha, learned Senior Standing Counsel. Merely because the objects of the trust are for the advancement of the business of TPA, it would not *ipso facto* render the trust to be non-charitable. The objects of the trust are not exclusively for the promotion of the interests of the TPA members. The objects are to provide benefit to general public in the field of insurance and health facilities. In the course of carrying out the main activities of the trust, the benefits accruing to the TPA members cannot, by itself, deny the institution the benefit of being a charitable organisation.



10. For the foregoing reasons, we find no substantial question of law arising for our consideration. Accordingly, the appeal is dismissed with no orders as to cost.

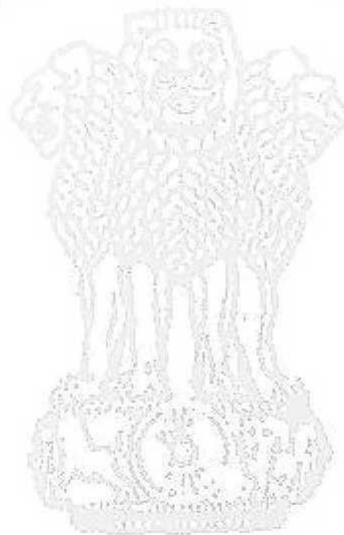
SANJEEV NARULA, J

VIPIN SANGHI, J

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