



assessee trust had failed to apply its fund for charitable purpose as envisaged in the provisions of section 11 of the Act?”

In the present case, Lilavati Kirtilal Mehta Medical Trust has been registered under Section 12A of the Income Tax Act, 1961. The Trust was accorded an exemption certificate under Section 80G for the period from 1<sup>st</sup> April 2003 to 31<sup>st</sup> March 2006. The certificate was renewed until 31<sup>st</sup> March 2009. The Trust has been founded with the object of affording medical relief and for the spread of medical science. The Trust had regularly filed its return of income claiming exemption under Section 11. This was allowed for all earlier assessment years, save and except for the year in question.

The Assessing Officer in the course of the Assessment Order under Section 143(3) noted that the receipts of the Trust for the year in question were Rs.115.60 crores whereas the expenses incurred were in the amount of Rs.96.01 crores. The Assessing Officer was of the view that these expenses were purely administrative and were incidental to expenses incurred for the

management of the hospital. The difference between the receipts and the expenses amounted to Rs.19.59 crores. The assessee had claimed a capital expenditure of Rs.12.93 crores which was expended towards the acquisition of assets for the hospital. The Assessing Officer held that the expenses as listed do not spell out any charitable or philanthropic act on the part of the assessee.

In appeal, the CIT (Appeals) noted that the main objective of the Trust as contained in Clause (3) of the Deed by which the Trust was constituted, included the provision of medical relief and spread of medical science, including the establishment, maintenance and support of the hospital. The CIT (Appeals) held that having regard to the definition of the expression “charitable purpose” in Section 2(15), the object for which the Trust was formed, would constitute medical relief and, is therefore, a charitable purpose. The Appellate Authority held that once the object of the Trust was held to be a charitable purpose, this could be accomplished by establishing and running a hospital which in turn requires various operational expenses to be undertaken, besides the purchase of equipment in the form of capital assets.

The assessee had during the year in question, expended an amount of Rs.96.01 crores. The CIT (Appeals) came to the conclusion that the Assessing Officer was not justified in holding that the Trust had not applied 85% of its net surplus for charitable purposes and in denying exemption under Section 11 on that ground.

The ITAT has while confirming the decision of the CIT (Appeals) also noted that the Trust has been granted registration under Section 12A and an exemption under Section 80G which continued to hold the field at the material point of time. The Assessing Officer arrived at the conclusion that the net profit ratio was 16.95% whereas under Section 11, 85% of the net surplus had to be utilized towards the charitable object. The Tribunal noted that the capital assets in the amount of Rs.12.19 crores have been purchased and if these were to be taken into consideration, the rate of profit would work out to between 6% and 7% which is much lower than 15% statutorily allowable. In the circumstances, more than 85% of the funds were found to have been applied for charitable purposes. In the circumstances, the order of the CIT (Appeals) was upheld.

The decision of the Tribunal cannot be faulted. Under Section 11(1)(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of fifteen per cent of the income from such property, is not liable to be included in the total income of the assessee. In the present case, the Assessing Officer held that the assessee was not entitled to the benefit of Section 11 on the basis that the capital expenditure of Rs.12.19 crores was not liable to be taken into account in reckoning as to whether income in excess of 85% had been applied for charitable objects. The Tribunal was justified in holding that the capital assets acquired during the course of the year were in furtherance of the charitable purpose for which the Trust has been constituted. Consequently, the amount of Rs.12.19 crores towards capital assets is correctly regarded as expenditure incurred in furtherance of the charitable purposes of the Trust. Hence, the Tribunal has correctly come to

the conclusion that the net profit of the Trust was not 16.95% as was the reasoning of the Assessing Officer, but would be between 6 and 7%. The grant of exemption under Section 11 for the assessment year in question was in order. In the circumstances, there is no merit in the appeal which does not raise any substantial question of law. The appeal is dismissed.

( Dr.D.Y.Chandrachud, J.)

( J.P.Devadhar, J.)