

No denial of exemption just because trust failed to specify purpose of accumulation of funds in Form 10

Summary – The High Court of Gujarat in a recent case of Bochasanwasi Shri Akshar Purshottam Public Charitable Trust, (the Assessee) held that Lack of declaration in Form No. 10 regarding specific purpose for which funds were being accumulated by assessee-trust, would not be fatal to exemption claimed under section 11(2)

Facts

- The assessee was a public charitable trust. For the relevant assessment year, the assessee had filed the return of income claiming deduction of a sum of Rs. 3.60 crores under section 11(2). The Assessing Officer questioned the assessee with respect to such claim *prima facie* believing that the assessee had not indicated the purpose for which the income was set apart which was one of the requirement of section 11 of the Act. He also referred to the declaration to be made by the assessee under Form No. 10 in support of such a claim in which also, according to him, there was no specification of the purpose.
- The assessee appeared before the Assessing Officer and filed a detailed reply. The gist of the reply was that the assessee-trust was engaged in providing medical facilities at various centers. At the time of setting apart of the funds, two hospital projects were coming up and modern amenities were required to be provided in the existing hospitals. The board of the trustees, therefore, passed the resolution to set apart such amount to finance future requirement of the trust's projects.
- The Assessing Officer having rejected assessee's explanation, disallowed claim of deduction filed under section 11(2).
- The Commissioner (Appeals) confirmed the view of the Assessing Officer.
- The Tribunal, however, taking a view that it was not mandatory to specify object in Form No. 10 for which funds were accumulated, set aside order passed by authorities below.
- On revenue's appeal:

Held

- Section 11(2) provides that eighty five per cent of the income which is not utilized by the Trust for charitable or religious purposes would not be included in the total income of the previous year of receipt of the income provided the conditions laid down in clauses (a) to (c) contained therein are satisfied. Clause (a) in particular, which is applicable, provides that such person furnishes the statement in the prescribed form and in prescribed manner to the Assessing Officer stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart which shall in no case exceed five years. Undoubtedly therefore, the statement of purpose for which the income is being accumulated or set apart is one of the requirements which must be satisfied before the assessee can avail the benefit under sub-

section (2) of section 11 of the Act. However, that by itself would not mean that any inaccuracy or lack of full declaration in the prescribed format by itself would be fatal to the claimant.

- The prime requirement of this clause is of stating of the purpose for which the income is being accumulated or set apart. In the present case, we are prepared to accept the revenue's stand that the declaration made in Form No. 10 by the assessee was not sufficient to fulfil this requirement. However, as noted, during the course of assessment proceedings, the Assessing Officer called upon the assessee to explain the position in response to which, the assessee in detail pointed out background under which the board of trustees had met, considered the material and eventually passed a formal resolution setting apart the funds for the ongoing hospital projects of the trust and for modernization of the existing hospitals. There was thus a clear statement made by the assessee setting out the purpose for which the income was being set apart. Therefore, there was no error in view of the Tribunal.
- In view of above, revenue's appeal is dismissed.