IN THE INCOME TAX APPELLATE TRIBUNAL,
AMRITSAR BENCH, AMRITSAR

[Coram: Pramod Kumar AM and A D Jain JM]

I.T.A. Nos.: 496/Asr/ 2013 and 18/ Asr/ 2015
Assessment years: 2009-10 and 2011-12

Hoshiarpur Improvement Trust ***……Appellant***
Chandigarh Road, Hoshiarpur [PAN: AAATI4915Q]

Vs.

Income Tax Officer
Ward 1, Hoshiarpur ***……Respondent***

I.T.A. Nos.: 200/Asr/ 2010 and 336/ Asr/ 2014
Assessment years: 2005-06 and 2009-10

Pathankot Improvement Trust ***……Appellant***
Dhangu Road, Pathankot [PAN: AAATTF1372M]

Vs.

Dy Commissioner of Income Tax
Circle, Pathankot ***……Respondent***

I.T.A. No.: 760/Asr/14
Assessment year: 2011-12

Improvement Trust, Moga ***……Appellant***
G T Road, Moga, [PAN: AAALI0024L]

Vs.

Income Tax Officer
Ward 1, Moga ***……Respondent***

I.T.A. No.: 417/Asr/13
Assessment year: 2009-10

Improvement Trust, Bhatinda ***……Appellant***
Dr Mela Ram Road, Bhatinda [PAN: AAATE1563E]

Vs.

Assistant Commissioner of Income Tax
Circle 1, Bhatinda ***……Respondent***

I.T.A. No.: 402/Asr/14
Assessment year: 2010-11

Jalandhar Improvement Trust ***……Appellant***
Model Town Road, Jalandhar [PAN: AAATJ4768N]

Vs.

Assistant Commissioner of Income Tax
Circle III, Jalandhar ***……Respondent***

I.T.A. Nos.: 476 and 477/Asr/ 2011
Assessment years: 2006-07 and 2007-08

Assistant Commissioner of Income Tax
Circle 5, Amritsar ***……Appellant***

Vs.

Amritsar Improvement Trust ***……Respondent***
C Bock, Ranjit Avenue, Amritsar [PAN: AAJFA4492K]

I.T.A. Nos.: 636 and 637/Asr/ 2013
Assessment years: 2004-05 and 2005-06

Amritsar Improvement Trust ***……Appellant***
C Bock, Ranjit Avenue, Amritsar [PAN: AAJFA4492K]

Vs.

Assistant Commissioner of Income Tax
Circle 5, Amritsar ***……Respondent***

Appearances by:
Y K Sud, **J S Bhasin** and **Salil Kapoor**,
appearing independently *for different assessees named above*
Tarsem Lal, *for the Assessing Officer*

Dates of hearing the appeals : June 2, 8, 9, 10 and 11, 2015
followed by the filing of written submissions by the DR
Date of pronouncing the order : September 10, 2015

O R D E R

Per Pramod Kumar:

1. These eleven appeals belong to six different assessees but the common thread in all these assessees is that all the assessees involved in these appeals are improvement trust set up under section 3 of the **Punjab Towns Improvement Trusts Act 1922** for the purposes of discharging duty of "**carrying out the provisions of this Act** *(i.e. Punjab Towns Improvement Trust Act, 1922)* **in any local area** *(i.e. and the area within which a trust has been created for the purposes of carrying out the provisions of the Act)*". One common issue which requires to be adjudicated in these appeals is whether the manner in which these assessees are conducting their activities is such that the very basic character of 'general public utility', as set out in Section 2(15) of the Income Tax Act, 1961, is lost. As a corollary to this hypothesis being tested, it is also required to be examined whether even if the assessees are held to be pursuing an object of 'general public utility', on the common facts of these cases, the work being done by the assessee ceases to be for 'charitable purposes' due to first proviso to Section 2(15) which lays down that "**the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business……..irrespective of the nature of use or application, or retention, of the income from such activity**". As these common issues are involved in these eleven appeals, we have, with the consent of learned representatives appearing before us, considered it fit and proper to take up all these appeals together and begin by deciding this basic issue first, in the light of arguments advanced by the learned representatives representing different improvement trusts and by the learned departmental representative. We will, therefore, begin by taking up this common issue first and, after adjudicating upon the same, address ourselves to the issues raised in respective appeals.

2. As we do so, we may also make it clear that this issue was earlier decided by this very bench of the Tribunal and against the assessee, in the case of **ACIT**

Vs Amritsar Improvement Trust [(2013) 153 TTJ 364 (Asr)] and the said decision has also been followed in the cases of many other improvement trusts. However, when the orders so passed by the Tribunal were challenged in appeal before Hon'ble jurisdictional High Court, Their Lordships were of the considered view that "**The core or real controversy raised herein, as we perceive, relates to two issues. Firstly, whether the appellant-trust is an institution which carries on charitable activities within the meaning of section 2(15) of the Act and secondly in case the appellant trust is engaged in the activity of advancement of any other object of general public utility, can it be denied exemption in view of proviso to section 2(15) of the Act which was introduced with effect from April 1, 2009, whereby exception has been carved out in respect of charitable activities which involves the carrying on of any activity in the nature of trade, commerce or business or any activity of rendering any service in relation to any trade, commerce or business for a cess or fee or any other consideration, irrespective of the nature of use or application or retention of the income from such activity.**". Having so taken note of the real controversy, however, Their Lordships deemed it appropriate to remit the matter back to the Tribunal, i.e. before us, for fresh adjudication. In the judgment dated 6th August 2014, (in ITA No 100 of 2014; Amritsar Improvement Trust Vs CIT), which was followed, vide judgments of even date, in the cases of other improvement trusts as well, Their Lordships had concluded as follows:

> **"After hearing learned counsel for the parties, in our opinion, the matter requires to be remitted to the Tribunal to adjudicate the issue regarding the nature of activities of the appellant trust whether they are in the nature of charitable within the meaning of Section 2(15) of the Act in respect of assessment years in question or not, keeping in view the arguments raised by the learned counsel for the appellant-assessee and to pass fresh orders relating to assessment proceedings thereafter in accordance with law.**
>
> **Accordingly, the impugned orders passed by the Tribunal in all the appeals are set aside and the matter is remanded to the Tribunal to decide the same afresh in the light of the submissions made by the learned counsel for the appellant after affording an opportunity of hearing to the parties in**

accordance with law. Needless to say, anything observed hereinbefore shall not be taken to be expression of opinion on the merits of the controversy. Sincere efforts shall be made to decide the matter expeditiously. As a result, all the appeals stand disposed of"

3. The background in which the above issue arises in these appeals can be appreciated from a look at the relevant material facts leading to these appeals before us.

4. We will take up ITA No. 496/Asr/2013 as the lead case as the assessment year involved in this appeal is the first assessment year post insertion of Explanation to Section 2(15). As we go along, wherever necessary, we will also make references to facts of, and observations in, the other cases- as may be necessary.

5. By way of this appeal, the assessee appellant has challenged correctness of the order dated 2nd April 2013, passed by the CIT(A), in the matter of assessment under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), for the assessment year 2008-09. Grievances raised by the assessee are as follows:

1. That the learned CIT(A) has grossly erred misdirected himself, in law and on the facts of the case, to hold that the assessee trust is not involved in any charitable activity to qualify for exemption under section 11 of the Income Tax Act, 1961.

2. That the learned CIT(A) was not justified in upholding the addition of Rs 65,20,690, as made by the learned AO, by treating the surplus as profit at par with a normal builder.

3. That the authorities below have grossly erred in not appreciating that 'profit earning' was never the motive of the assessee trust, even when registration under section 12A was granted by the learned CIT-I, Jalandhar, on 26th April 2006.

4. That the reliance placed on different case laws by the AO and the CIT(A) is highly placed.

5. That the orders of the authorities below, being contrary to the facts and law, are not sustainable.

6. This appeal was originally disposed of, vide order dated 28th November 2013, by this Tribunal. However, the order so passed was carried in appeal before Hon'ble jurisdictional High Court. Vide judgment dated 6th August 2014, and for the reasons set out earlier in this order, Their Lordships vacated the said order and remitted the matter to us for adjudication *de novo*. That is how we have come to be *in seisin* of the matter again.

7. Briefly stated, the relevant material facts are as follows. The assessee, vide order dated 26th April 2006 passed by the learned Commissioner of Income Tax- I, Jalandhar, was granted registration as a charitable trust under section 12AA of the Act. While doing so, the learned Commissioner had observed as follows:

> **Having considered the facts and circumstances of this case, it is held that the trust is genuinely engaged in the activities of 'general public utility'. Registration applied for, therefore, is granted to the aforesaid trust with effect from 01.4.2005 in terms of the provisions of Section 12AA(b)(i) of the Income Tax Act. The trust is entered at Sr No. 222 of the relevant register maintained in this office. The grant of registration shall not, by itself, confer on the trust any right to claim any part of its income as exempt, and the claim for exemption, if any, shall be examined by the AO on merits at the time of assessment for each year.**

8. The assessee, vide his income tax return filed on 27.09.2010, claimed the entire income to be exempt under section 11 of the Act. This return was picked up for scrutiny assessment. In the course of the scrutiny assessment proceedings, the Assessing Officer noted that the assessee trust is set up, under the Punjab Towns Improvement Act 1922, (PTIA, in short) by the Government of Punjab and that the principal objective of the trust was to being about improvement in the town by the means set out under section 22 to 26 of the PTIA. The Assessing Officer, however, required the assessee to explain as to how the work done by the assessee trust, registered as pursuing objects of 'general public utility', qualifies to be eligible for exemption under section 2(15). It was explained by the assessee that the assessee trust is discharging the statutory

duties, for development of the assigned area, under the PTIA and under the guidance, instructions and strict supervision of the State Government. It was explained that the land for development is provided by the State Government, by acquiring the same under the Land Acquisition Act. The land so given to the assessee trust is developed, *inter alia*, by providing for public amenities such as gardens, schools, religious places, community halls and shopping areas. The area available, after providing for access roads and streets as also public amenities, is then allotted in accordance with the State Government policies which include policy regarding reservation for specified categories such as members of Scheduled Castes and Scheduled Tribes, army personnel, sports persons etc. It was also submitted that the assessee trust was "**not any business entity doing business independently but was performing duties assigned to it by the State Government**". It was also submitted that any surplus funds, generated by sale of properties, are used by the assessee trust for general development of the assigned area. It was also explained by the assessee that the assessee trust had developed three residential colonies, namely scheme no. 10, 11 and 2. It was further explained that "the trust has taken huge loans from banks for construction of shops in scheme no. 11 and 2 and used the funds generated from sale of these properties in repayment of loans and interest", and that as surplus funds are used, as per directions of the State Government, for the purposes of (i) construction and repair of road near Gulam Nagar and Main Una Road, Hoshiarpur [estimated cost Rs 48.36 lakhs]; (ii) construction of complete road in Kirti Nagar, Hoshiarpur at Dana Mandi Railway crossing [estimated cost Rs 49.78 lakhs] and (iii) construction of approach road to Kaliyugi Mandir, Ward No. 3, Narain Nagar, Hoshiarpur [estimated cost: Rs 46.94 lakhs]. It was then explained that the assessee trust does not have any ownership rights over the roads but yet it has to construct these roads for the development of the city. It was for this reason that the learned Commissioner had granted registration to the assessee trust and held it to be pursuing objects of 'general public utility'. The assessee concluded by submitting that the assessee is "**a non-profit organization, owned and controlled by the State Government formed for**

the development of urban areas of Hoshiarpur and is not doing any commercial business, and, hence entitled for exemption under section 11 and 12 of the Income Tax Act".

9. None of these submissions, however, impressed the Assessing Officer.

10. The Assessing Officer was of the view that the aim of the assessee trust is "**acquisition of land, to develop it and sell it in the shape of plots, flats and commercial booths, after calling the applications from public with some registration fees**". He noted that these plots, shops and flats are sold at market rates. The Assessing Officer was of the view that these activities cannot be treated as advancement of any other object of "general public utility". The Assessing Officer further observed that, "**these activities of the trust regarding construction of colonies, building of flats/shops is only to earn profits**". While he did not dispute that trust is being "**run as per the rules and regulations of the State Government**", he was of the view that "**functioning of the trust cannot be regarded as 'charitable' within the meanings of Section 2(15) of the Act**" even as he noted that "**the trust has so far implemented three residential colonies, namely scheme no. 10, 11 and 2, alongwith commercial booths, gardens, religious places for catering the needs of the respective colonies**". He also noted that "the land for these colonies was compulsorily acquired by the State Government under the provisions of the Land Acquisition Act". He then referred to the proviso to Section 2(15) of the Act which provides that "**the advancement of any other object of general utility shall not be a charitable purposes if it involves the carrying on of any activity in the nature of trade, commerce or business or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application or retention of the income from such activity".** In this background, the Assessing Officer observed as follows:

> **Contrary to the aims and objectives of a charitable trust, the assessee trust is doing trade and business of colonizer by development of the land in flats and commercial booths, and then selling it for earning profit. These trade items are being sold at market rates just to earn profit. The advancement of any object beneficial to public or a section of public would be an object of 'general public utility' which the assessee is not doing. It has done no work relating to charitable activities. The work done is solely to earn profit.**

11. The Assessing Officer then referred to the judicial precedents in the cases of **Lok Shikshan Trust Vs CIT [(1975) 101 ITR 234 (SC)]** and **Indian Chamber of Commerce & Ors Vs CIT [(1975) 101 ITR 797 (SC)]** for determining whether a particular activity of 'general public utility' is covered by the definition of the charitable purposes under section 2(15) or not. Referring to these precedents and the analysis of these precedents in the CBDT instruction no. 1024 dated 7th November 1976, he was of the view that he test which has been laid down by the Supreme Court for determining whether a particular activity of general public utility is covered by the definition of "charitable purpose" or not is : **(a) Is the object of the assessee one of general public utility ? (b) Does the advancement of the object involve activities bringing in moneys ? (c) If so, are such activities undertaken, (i) for profit, or (ii) without profit ?** He further observed that it was observed by the Supreme Court that if (a) and (b) are answered affirmatively, and cl. (i) is also answered affirmatively, the claim for exemption collapses and the benefit of s. 11 will not be available to the entire income. However, if such activity is undertaken without profit motive, the object will be charitable purpose within the meaning of s. 2(15). Applying these tests to the facts of this case, the Assessing Officer concluded as follows;

> **In the case of the assessee, the main object of the assessee is to earn profit and bringing in money. Application with certain amounts are called for, and, after public draw/auction, the flats/plots and commercial booths are sold. Income and expenditure account furnished by the assessee show the complete picture of the activities undertaken by the trust. In its reply also, the assessee trust has intimated that the Hoshiarpur Improvement Trust has launched three schemes, viz. Scheme no. 2, Scheme no. 10 and Scheme no 11, which has developed the land into shops and plots for sale.**

Income is earned from sale of forms, sale of shops/plots and fees is received for doing/managing the business activities just to earn profit. There is no activity of the trust which qualifies it as a charitable trust for claiming exemption under section 11 of the Income Tax Act. The surplus shown in the income and expenditure account at Rs 65,20,689 is the profit earned by the trust and the same is taxable. On the basis of activities undertaken by the trust, it cannot be taken as charitable trust within the meaning of Section 2(15) of the Income Tax Act. Therefore, the income earned by it cannot be treated as exempt.

12. Aggrieved by the stand so taken by the Assessing Officer, assessee carried the matter in appeal before the learned CIT(A) but without any success. Learned CIT(A) was of the view that when it comes to the activities of the assessee trust, "**nothing is different from a normal builder except that the trust is controlled by the Government and this, by itself, is not sufficient to conclude that by the virtue of this fact alone, the trust is a charitable institution**". Learned CIT(A) also referred to, and relied upon, Hon'ble Kerala High Court's judgment in the case of **Info Parks Vs DCIT [(2010) 329 ITR 404 (Ker)]** with respect to the impact of insertion of proviso to Section 2(15). He then referred to decision of this Tribunal in the case of **Amritsar Improvement Trust** *(supra).* Learned CIT(A) thus approved the conclusions arrived at by the Assessing Officer and declined to interfere in the matter. The assessee is not satisfied and is in further appeal before us.

13. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of the applicable legal position.

14. Before we address ourselves to the facts of this case, let us analyse the relevant legal provisions. Section 2 (15), which defines 'charitable purposes' though in an inclusive rather than an exhaustive manner, had a rather quiet existence, unaffected by the frequent amendments to the Income Tax Act 1961, till 1st April 1984. Vide Finance Act, 2013, and with effect from 1st April 1984, the words '**not involving the carrying on any activity for profit'** were deleted from Section 2(15), and, with this amendment, this definition was as follows:

"Charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility:

15. Vide Finance Act, 2008, the words "**preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest)",** were added and**,** on a more relevant note, a new proviso (i.e. fist proviso) was added to this provision, carving out an exception in the cases of 'advancement of any other object of general utility', and, by the immediately following Finance Act 2009, there was yet another proviso (i.e. second proviso) introduced to carve out an exception from the exception itself. In essence, the effect of these provisos was that even when an assessee was pursuing 'a charitable purpose' in the event of advancement of any other object of public utility' it would cease to be for charitable purposes if it involves (a) carrying on an activity in the nature of trade, commerce or business; or (b) rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of nature of use or application or retention of the income from such activity. However, these provisions are not to apply when the activities are such a modest scale that the value of receipts in respect of the same are less than Rs 25 lakhs. These two provisos, as they stand now, are as follows:

> *Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity;*
>
> *Provided further that the first proviso shall not apply if the aggregate value of the receipts from the activities referred to therein is twenty five lakh rupees or less in the previous year.'*

16. Explaining the scope of these provisions, a coordinate bench of this Tribunal, in the case of **Himachal Pradesh Environment Protection and Pollution Control Board Vs CIT [(2010) 9 ITR Trib 204 (Chandigarh)],** has observed as follows:

13. It is also important to bear in mind that the insertion of proviso to s. 2(15) does not mean that in case an assessee is to receive any payment for anything done for trade, commerce or business, the assessee will be hit by the said proviso. It may be recalled that elaborating the scope of this amendment, CBDT, vide Circular No. 11, dt. 19th Dec., 2008 [(2009) 221 CTR (St) 1], has observed as follows :

> ***"3. The newly amended s. 2(15) will apply only to the entities whose purpose is 'advancement of any other object of general public utility' i.e., the fourth limb of definition of 'charitable purpose' contained in s. 2(15). Hence, such entities will not be eligible for exemption under s. 11 or under s. 10(23C) of the Act, if they carry on commercial activities. Whether such an entity is carrying on an activity in the nature of trade, commerce or business is a question of fact which will be decided based on the nature, scope, extent and frequency of activity.***
>
> ***3.1 There are industry and trade associations who claim exemption from tax under s. 11 or on the ground that their objects are for charitable purposes as these are covered under the 'any other object of public utility'. Under the principle of mutuality, if trading takes place between the persons who are associated together and contribute to a common fund for the financing of some venture or object, and in this respect have no dealings or relations with any outside body, then the surplus returned to such persons is not chargeable to tax. Therefore, where industry or trade associations claim both to be charitable institutions as well as mutual members, these would not fall under the purview of s. 2(15) owing to the principle of mutuality. However, if such organizations have dealings with the non-members, their claim for charitable institution would now be governed by the additional conditions stipulated in proviso to s. 2(15).***
>
> ***3.2 In the final analysis, whether the assessee has for its object 'the advancement of any other object of general public utility' is a question of fact. If such assessee is engaged in any activity in the nature of trade, commerce or business or renders any service in connection to trade, commerce or business, it would not be entitled to claim that its object is for charitable purposes. In such a case, the object of 'general public utility' will only be a mask or a device to hide the true purpose which is trade, commerce, or business or rendering of any service in relation to trade, commerce or business. Each case would, therefore, have to be decided on its own facts, and generalizations are not possible. An assessee who claims that their object is 'charitable purpose' within the meaning of s. 2(15) would be well advised to eschew any activity which is in the nature of trade, commerce or business or rendering of any service in relation to any trade, commerce or business.***

(Emphasis, italicized in print, supplied by us)

> *14. As the above CBDT circular, which is binding on the CIT under s. 119(1)(a) of the Act, aptly puts it, whether the assessee has, as its object, advancement of any other object of general public utility is essentially a question of to be decided on the facts of the assessee's own case and where object of general public activity is only a mask or device to hide the true purpose of trade, business or commerce, or rendering of any service in relation thereto, the assessee cannot be said to be engaged in a charitable activity within meanings of s. 2(15) of the Act. As a corollary to this approach adopted by tax administration, in our considered view, it cannot be open to learned CIT to contend that where an object of general public utility is not merely a mask to hide true purpose or rendering of any service in relation thereto, and where such services are being rendered as purely incidental to or as subservient to the main objective of 'general public utility', the carrying on of bona fide activities in furtherance of such objectives of 'general public utility' will also be hit by the proviso to s. 2(15).*
>
> *15. As CBDT rightly puts it, sweeping 'generalizations are not possible' and 'each case will have to decided on its facts'. The question then arises whether on the present set of facts it can be said that the assessee was engaged in trade, commerce or business or in rendering of a service to trade, commerce or business.*

17. Therefore, as the legal position stands as on now, even after the insertion of the above two provisos, as long as the object of general public utility is not merely a mask to hide true purpose or rendering of any service in relation thereto, and where such services are being rendered as purely incidental to or as subservient to the main objective of 'general public utility', the carrying on of *bonafide* activities in furtherance of such objectives of 'general public utility' cannot be hit by the proviso to s. 2(15). By the Finance Act 2015, these two provisos also stand substituted, with effect from 1st April 2016, a new proviso to Section 2(15). This new proviso is as follows:

> *Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—*
>
> *(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and*

> *(ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent. of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year*

18. It may be noted that while the earlier proviso simply stated that exclusion from 'charitable purposes' will come into play "**if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business**", the requirement of exclusion clause extends even to situations "**in which such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility**". In other words, the exclusion clause, by proviso to Section 2 (15), was earlier triggered by "**involvement in any activity in the nature of trade, commerce or business etc**" but, post Finance Act 2015 amendment, it will be triggered even if "**such an activity in the nature of trade, commerce or business etc is undertaken in the course of carrying out such advancement of any other object of general public utility**".

19. This substitution of proviso to Section 2(15), in our considered view, may be viewed as representing a paradigm shift in the scope of the exclusion clause.

20. The paradigm shift is this. So far as the scope of earlier provisos is concerned, the CBDT itself has, dealing with an assessee pursing "**the advancement of any object of general pubic utility**", observed that "**If such assessee is engaged in any activity in the nature of trade, commerce or business or renders any service in connection to trade, commerce or business, it would not be entitled to claim that its object is for charitable purposes**" because "**In such a case, the object of 'general public utility' will only be a mask or a device to hide the true purpose which is trade, commerce, or business or rendering of any service in relation to trade, commerce or business."** The advancement of any objects of general public utility and engagement in trade, commerce and business etc. were thus seen as

mutually exclusive in the sense that either the assessee was pursuing the objects of general public utility or pursuing trade, commerce or business etc. in the garb of pursing the objects of general public utility. As the CBDT circular itself demonstrates, there could not have been any situation in which the assessee was pursing the objects of general public utility as also engaged in trade, commerce of business etc. In the new proviso, however, even when the assessee is engaged in the activities in the nature of trade, commerce or business etc. and "**such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility**" it is excluded from the scope of charitable purposes only when "**the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year**". In other words, even when the activities are in the course of advancement of any other object of general public utility, but in the nature of trade, commerce or business etc, the proviso seeks to exclude it only when the threshold level of activity is not satisfied. Whether such a statutory provision stands the legal scrutiny or not is another aspect of the matter, and that is none of our concern at present anyway, it is beyond doubt that the new proviso, with effect from 1st April 2016, seeks to exclude, from the scope of section 2(15), the situations in which even in the course of pursuing advancement of any objects of general public utility when any activities in the nature of trade, commerce or business etc **"is undertaken in the course of actual carrying out of such advancement of any other object of general public utility**", unless, of course, the activity level remains within the threshold limit i.e. receipts from such activities are less than twenty percent of total receipts of that year.

21. As the above provisions, which, in our humble understanding, seeks to restrict the scope of Section 2(15) is effective from the assessment year 2016-17, in our considered view, these provisions are only prospective in effect. As a corollary to this legal position, in our considered view, even if the activities in

the nature of trade, commerce or business etc are undertaken in the course of actual carrying out of advancement of any object of general public utility, till the end of the previous year relevant to the assessment year 2016-17, the activities will continue to be covered by the scope of Section 2 (15). As we hold so, we may only refer to the observations of a five member bench of Hon'ble Supreme Court, in the case of **CIT Vs Vatika Townships Pvt Ltd [(2014) 367 ITR 466 (SC)]**, as follows:

> **31. Of the various rules guiding how legislation has to be interpreted, one established rule is that unless a contrary intention appears, legislation is presumed not to be intended to have a retrospective operation. The idea behind the rule is that a current law should govern current activities. Law passed today cannot apply to the events of the past. If we do something today, we do it keeping in view the law of today and in force and not tomorrow's backward adjustment of it. Our belief in the nature of the law is founded on the bed rock that every human being is entitled to arrange his affairs by relying on the existing law and should not find that his plans have been retrospectively upset. This principle of law is known as *lex prospicit non respicit*: law looks forward not backward. …….**
> **…….**
>
> **33. We would also like to point out, for the sake of completeness, that where a benefit is conferred by legislation, the rule against a retrospective construction is different. …….**
>
> **34. ……. In the instant case, the proviso added to Section 113 of the Act is not beneficial to the assessee. On the contrary, it is a provision which is onerous to the assessee. Therefore, in a case like this, we have to proceed with the normal rule of presumption against retrospective operation.**
>
> *(Emphasis, by underlining, supplied by us now)*

22. Since in the orders of the authorities below, some references have been made to the judicial precedents and the CBDT instructions in the context of the legal position when the words "not involving the carrying on any activity for profit" *[i.e. CBDT instruction no. 1024 dated 7th November 1976 and Hon'ble Supreme Court's judgments in the cases of Lok Shikshan Trust Vs CIT (supra) Indian Chamber of Commerce & Ors Vs CIT (supra)],* it may also be appropriate to briefly deal with the relevant developments. The CBDT instruction no. 1024 dated 7th November

1976 was issued in the light of the two Supreme Court rulings referred to above and it stated as follows:

BOARD'S INSTRUCTION NO. 1024 DT. 7TH NOVEMBER, 1976

7th November 1976

Sec. 2(15) of the IT Act, 1961, defines "charitable purposes" as under:

"Charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility not involving the carrying on of any activity for profit.

2. In the definition of "charitable purpose" the expression "not involving the carrying on of any activity for profit" was added in the 1961 Act. The significance of this expression has been examined by the Supreme Court in the great detail in the cases of Sole Trustee, Lok Shikshana Trust vs. CIT (1975) 101 ITR 234 (SC) and Indian Chamber of Commerce vs. CIT (1975) 101 ITR 796 (SC) . Commenting on this expression, their Lordships, in the case of the Indian Chamber of Commerce vs. CIT etc., observed :

> **"Notwithstanding the possibility of obscurity and of dual meaning when the emphasis is shifted from 'advancement' to 'object' used in s. 2(15), we are clear in our minds that by the new definition the benefit of exclusion from total income is taken away where in accomplishing a charitable purpose the institution engages itself in activities for profit."**

The Supreme Court emphasised that if in the advancement of the objects of general public utility a trust resorts to carrying on of any activity for profit, them necessarily s. 2(15) cannot confer exemption. In Lok Shikshana Trust, their Lordships Khanna, J. and Gupta, J. observed:

> **"Ordinarily, profit motive is a normal incident of business activity and if the activity of a trust consists of carrying on of 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 any activity for profit..."**

3. The test which has been laid down by the Supreme Court for determining whether a particular activity of general public utility is covered by the definition of "charitable purpose" or not is: (a) Is the object of the assessee one of general public utility? (b) Does the advancement of the object involve activities bringing in moneys? (c) If so, are such activities undertaken, (i) for profit, or (ii) without profit? It was observed by the Supreme Court that if (a) and (b) are answered affirmatively, and cl. (i) is also answered affirmatively, the claim for exemption collapses and the benefit of s. 11 will not be available to the entire income. However, if

such activity is undertaken without profit motive, the object will be charitable purpose within the meaning of s. 2(15).

4. These two decisions of the Supreme Court may kindly be brought to the notice of the officers working in your charge. You may also kindly direct them to carry out a review of the completed cases in the light of the pronouncement of the Supreme Court and take remedial action wherever called for and feasible. A report indicating the result of the review may please be sent to the Board by 1st Jan., 1977 without fail.

23. However, the judicial views relied upon in the above instructions (i.e. views expressed in Indian Chamber of Commerce decision and the majority views, expressed by Hon'ble Justice Khanna and Hon'ble Justice Gupta, in the case of Lok Shikshan Trust) did not meet the approval of a larger bench of Hon'ble Supreme Court in the case of **CIT Vs Surat Art Silk Clothes Manufacturers Association [(1980) 121 ITR 1 (SC)]**. While doing so, Hon'ble Justice Bhagwati, in his order representing majority views, observed as follows:

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 Shikshana Trust's case (supra) as well as Indian Chamber of Commerce's case (supra). It was said by Khanna J. in Sole Trustee, Loka Shikshana Trust's 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 for profit."

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

"An undertaking by a business organisation is ordinarily assumed to be for profit unless expressly or by necessary implication or by eloquent surrounding circumstances the making of profit stands loudly negatived...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. <u>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</u>

> **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, by underlining, supplied by us now)*

24. It was in this backdrop, and shortly after the above judgment was delivered by Hon'ble Supreme Court was rendered, that the words "not involving the carrying on any activity for profit" were dropped from Section 2(15).

25. In view of the above discussions, the reliance placed by the authorities below on the CBDT instruction no. 1024 *(supra)* and on Hon'ble Supreme Court decisions in the cases of Indian Chamber of Commerce *(supra)* and Lok Shikshan Sansthan *(supra)* is devoid of any legally sustainable merits. These decisions are no longer good law, the relevant provision in the context of which the decisions were given does no longer exist on the statute, and the judicial precedent, which the CBDT instruction has interpreted, has already faded into oblivion.

26. It is, however, important to bear in mind the fact that, going by the circular no.372 dated 8th December 1983 issued by the Central Board of Direct Taxes explaining the amendments made by the Finance Act 1983, dropping of the words "not involving the carrying on any activity for profit" did not represent any paradigm shift or substantive amendment in law inasmuch as this amendment was stated to be only consequential to similar restriction now

placed under section 11 itself. It was explained, in the aforesaid circular, as follows:

> **Amendment of the definition of "charitable purpose"—Sec. 2(15)**
>
> **8. Under s. 2(15) of the IT Act, "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility not involving the carrying on of any activity for profit. Sec. 3(a) of the Finance Act has omitted the words "not involving the carrying on of any activity for profit" from the definition. This amendment is consequential to the amendment made in s. 11 of the IT Act by s. 6(b) of the Finance Act whereunder profits and gains of business in the case of charitable or religious trusts and institutions will not be entitled to exemption under that section except in cases where the business fulfils the conditions specified in s. 11(4) of the Act. The amendment takes effect from 1st April, 1984 and will, accordingly, apply in relation to the asst. yr. 1984-85 and subsequent years.**

27. The corresponding amendment was insertion of Section 11(4A). This section, as it was originally introduced, is set out below, followed by CBDT circular's *(supra)* explanation about the nature of this amendment:

> **Section 11 (4A)- as inserted by the Finance Act 1983**
>
> (4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income, being profits and gains of business, unless—
>
> > (a) the business is carried on by a trust wholly for public religious purposes and the business consists of printing and publication of books or publication of books or is of a kind notified by the Central Government in this behalf in the Official Gazette ; or
> >
> > (b) the business is carried on by an institution wholly for charitable purposes and the work in connection with the business is mainly carried on by the beneficiaries of the institution,
>
> and separate books of account are maintained by the trust or institution in respect of such business
>
> **CBDT Circular dated 8th December 1983 explaining the above amendment in law-**
>
> Business income of charitable and religious trusts and institutions
>
> 19.1 The Finance Act has inserted a new sub-s. (4A) in s. 11 of the IT Act to provide that the provisions of sub-s. (1) of that section relating to exemption of

income derived from property held under trust for charitable or religious purposes; or of sub-s. (2) thereof relating to accumulation of setting apart of such income for application to such purposes; or the connected provisions of sub-ss. (3) and 3(A) of the said section will not apply in relation to profits and gains of business. This provisions will apply irrespective of whether the profits and gains are derived from a business carried on by the trust or institution or from a business undertaking which is held in trust for such purposes. An exemption has, however, been made in relation to profits and gains of business in the following cases:—

(a) where the business is carried on by a trust wholly for public religious purposes and the business consists of printing and publication of books or publication of books or the business is of a kind notified by the Central Government in this behalf in the Official Gazette;

(b) the business is carried on by an institution wholly for charitable purposes and the work in connection with the business is mainly carried on by the beneficiaries of the institution.

19.2 The exceptions mentioned under (a) and (b) above will not be available unless separate books of account are maintained by the trust or institution in respect of such business. In consequence of the new provisions made in sub-s. (4A) of s. 11, cl. (bb) of s. 13(1) of the IT Act (which restricted the exemption of business income in the case of charitable trusts and institutions for the relief of the poor, education or medical relief, only in cases where the business is carried on the course of the actual carrying out of a primary purpose of the trust or institution) has been omitted.

19.3 It is relevant to note that the provisions of new sub-s. (4A) of s.11 do not override the provisions of s. 10 of the IT Act, and as such, profits derived by any trust, institution, association, etc. referred to in cls. (21), (22), (22A), (23), (23A), (23B) (23BB)and (23BC) will continue to be exempt from income tax.

19.4 The Finance act has also amended s. 164 of the IT Act to clarify that profits and gains of business which are not exempt under s. 11 of the IT Act will be charged to income-tax as if such profits and gains (including any other income, if any, which is also not exempt under s. 11) were the income of any association of persons.

a19.5 The aforesaid amendments take effect from 1st April, 1984 and will, accordingly, apply in relation to the asst. yr. 1984-85 and subsequent years.

[Secs. 6, 7 and 37 of the Finance Act]

28. However, the judicial interpretation assigned to the above amendment was not in consonance with the understanding of the CBDT, as reflected in the above circular, inasmuch as this limitation did not, as per Hon'ble Madras High Court in the case of **Thanthi Trust Vs CBDT [(1995) 213 ITR 639 (Mad)],**

apply to the income derived from property held under the trust for charitable purposes. To that extent, paragraph 13.1 of the above circular was held to inconsistent with Section 11(4A). This uncertainty did not last long as there was yet another amendment in Section 11, and the new sub section 4A with effect from 1st April 1992, which was to substitute for the then existing sub section 4A, provided as follows:

> **(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.**

29. Explaining this amendment in law, the CBDT circular no. 621 dated 19th December 1991 **[(1992 195 ITR (St) 154],** read with circular no 642 dated 15th December 1992 **[(1993) 199 ITR (St) 7]** stated as follows:

> **CBDT circular no. 621 dated 19th December 1991 [(1992 195 ITR (St) 154 @*165*]**
>
> 15.8 In order to bring exemption of charitable or religious trusts in line with the corresponding provisions in section 10(23C)(iv) or (v) of sub-section (4A) of section 11 has been amended to permit trust and institutions to carry out business activities if the business activities are incidental to the attainment of its objective. The charitable or religious trust will no longer lose complete exemption from income-tax. However, the profits and gains from such business activity will be subjected to tax.
>
> **CBDT circular no 642 dated 15th December 1992 [(1993) 199 ITR (St) 7 @7]**
>
> *In partial modification to para 15.8* (as extracted above) *of the Circular No. 621, dt. 19th Dec., 1991 issued from F. No. 133/389/91-TPL, it is clarified that according to the provisions of section 11(4A) of the Income-tax Act, as amended through the Finance (No. 2) Act, 1991, with effect from 1st April, 1992, profits and gains of business in the case of a trust or institution will not be liable to tax if the business is incidental to the attainment of the objectives of the trust or institution, as the case may be. In addition, separate books of account are to be maintained by the trust or institution in respect of such business. Income of any other business which is not incidental to the attainment of the objectives of the trust or institution will not be exempt from tax.*

30. The above discussions clearly show that so far as making profits from a business activity incidental to the attainment of objectives of the trust is concerned, the legal position always was that, as long as separate books of accounts have been maintained by the assessee, the same were exempt from tax under section 11. There is no substantive change in law vis-à-vis the law prevailing as at the point of time in the context of which Hon'ble Supreme Court's five judge bench had delivered the judgment in the case **CIT Vs Surat Art Silk Clothes Manufacturers Association** *(supra).* In the said case, Their Lordships had, *inter alia,* held, by majority view, that "**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**". Of course, as the law was so laid down, the school of thought to the effect **"However, if the object of the trust is advancement of an object of general public utility and it carried on any activity for profit, it is excluded from the ambit of charitable purpose defined in s. 2(15)"**was articulated in the said order but that was part of the minority view stated by Justice A P Sen, as he then was. His Lordship did proceed to observe, as is the stand taken by the authorities below, as follows:

> "With respect, I venture to say that if an object of general public utility is engaged in an activity for profit, it ceases to be a charitable purpose and, therefore, the income is not exempt under s. 11(1)(a). In case of a trust falling under any of the first three heads of charity, viz., "relief of the poor", "education" and "medical relief" it may engage in any activity for profit, and the profits would not be taxable if they were utilized for the primary object of the trust. In other words, the business carried on by them is incidental or ancillary to the primary object, viz., relief of the poor, education and medical relief. To illustrate, a charitable hospital holding buildings on trust may run a nursing home. The profits of the nursing home owned and run by the trust will be exempt under s. 11(4), because the business is carried on by the trust in the course of the actual carrying out of the primary purpose of the trust. The concept of "profits to feed the charity", therefore, is applicable only to the first three heads of charity and not the fourth. It would be illogical and, indeed, difficult to

apply the same consideration to institutions which are established for charitable purposes of any object of general public utility. Any profit-making activity linked with an object of general public utility would be taxable. The theory of the dominant or primary object of the trust cannot, therefore, be projected into the fourth head of charity, viz., "advancement of any other object of general public utility", so as to make the carrying on of a business activity merely ancillary or incidental to the main object.

In fact, if any other view were to prevail, it would lead to an alarming result detrimental to the Revenue.

31. Clearly, therefore, so far as pre insertion of Explanations to Section 2 (15), i.e. prior to 1st April 2009, is concerned, the stand taken by the authorities below cannot be sustained in law. Assuming that all the allegations of the Assessing Officer, with respect to presence to profit motive in activities of the assessee are correct, since these activities were carried out with the larger and predominant objective of general public utility. It is only when, to use the words of the CBDT circular cited earlier in this order and the beneficial impact of which has the binding force on the field authorities under section 119 of the Act, the Assessing Officer finds that the income is "**income of any other business which is not incidental to the attainment of the objectives of the trust or institution**" that the such an income will "**not be exempt from tax**". There is no finding to that effect by any of the authority below. In any case, it is not even the case of revenue authorities that the activities of the trusts do not serve the objects of the general public utility but the case is confined to the stand that these activities have been carried out in such a manner as to make profit and no activities directly of any general public utility are carried out. The registration granted to the assessee evidences that the objects of the assessee trust were advancement of objects of general public utility, and there is nothing to demonstrate any paradigm shift from this fundamental position. The allegation is only of the profit making but that does not obliterate the overall objects of general public utility. As regards the maintenance of the separate books of accounts for the business activities pursued by the assessee trust, since all the activities of the assessee trust are said to be of the business nature, the books of

accounts maintained by the assessee trust meet this requirement as well. Of course, we will deal with the issue of activities being in the nature of 'profit making activities' a little later, but, suffice to say, that on the admitted facts of this case, so far period prior to 1st April 2009 is concerned and for the reasons set out above, the benefit of Section 11 read with Section 2(15) could not have been declined at all.

32. Turning once again to the amendments brought on the statue with effect from 1st April 2009, we have to understand that there are the two mutually exclusive situations in which business activities are carried out by the assesse trust – one, in which "**the object of 'general public utility' will only be a mask or a device to hide the true purpose which is trade, commerce, or business** *etc*" *[referred to in the CBDT circular no. 11 dated 19th December 2008 issued at the point of time when first proviso to Section 2(15) was introduced]*; and – second, in which any activities in the nature of trade, commerce or business etc are **"undertaken in the course of actual carrying out of such advancement of any other object of general public utility**", *[insertion of new proviso to replace first and second proviso to section 2(15)- effective 1st April 2016 i.e. assessment year 2016-17]*. As for the first category, post 1st April 2009 amendment, this category cannot be treated as covered by Section 2(15) but then that's not the case before us. It is not, and it cannot be, the case that the Government formed these trusts by legislating the Punjab Towns Improvement Act 1922 because it wanted to carry on the business as colonizer or developer. Therefore, by no stretch of logic, formation of trusts can be said to a mask or device to hide the true purpose of the doing business. The case of the revenue at best is that the manner in which the activities are carried out is of a profit seeking entity that a business inherently is. In other words, thus, the case of the revenue is that the activities in the nature of trade, commerce and business are carried out for advancement of objects of general public utility. This situation at best falls in the second category. However, these cases, for the detailed reasons set out above, the exclusion of these cases from Section 2(15) is only effective 1st April

2016, i.e. assessment year 2016-17. The law is well settled by a five judge bench of Hon'ble Supreme Court, in the case of **Vatika Township Pvt Ltd** *(supra),* that, following the maxim ***lex prospicit non respici***, the law, particularly with respect to a requirement which is more onerous on the assessee, cannot be treated as retrospective in effect unless it is specifically legislated to be so. In our considered view, therefore, this amendment cannot be treated as clarificatory or retrospective in effect. In view of these discussions, even post insertion of proviso to Section2(15) but before 1st April 2016, when business activities are carried by the assessee trust "in the course of actual carrying out of such advancement of any other object of general public utility", the benefit of Section 11 read with Section 2 (15) cannot be declined. Nothing, therefore, turns on the assessee carrying out, even if that be actually so, activities in the nature of trade, commerce or business etc as long as these activities are carried out in the course of actual carrying out of advancement of any other object of general public utility. The planned development of cities and towns is an object of general public utility, and that is an object consistently followed by the assessee in all its activities. For this short reason alone, the stand of the authorities below must be held to be unsustainable in law.

33. We must, however, also deal with the fundamental allegation of the revenue authorities that the assessee has sold residential and commercial units and residential and commercial lands **"just to earn profit"**

34. This profiteering, as learned Departmental Representative puts it, is the core issue in these appeals. As we deal with this aspect of the matter, we may reproduce the following written submissions filed by learned Departmental Representatives:

> **A: In all improvement trust cases**
>
> **It is submitted that the learned counsel namely Shri Y.K. Sood, CA and Shri J.S. Bhashi, Advocate have argued these appeals . My counter-submissions are as under :-**

It is submitted that there are two situations i.e.

a) Where the assessee's are rendering general public utility services and in rendering such services and due to exigency of rendering such service some surplus (not profit) results such assessee are not hit by the proviso to section 2(15) even if rendering of such services partake the character of trade, commerce or business or rendering services in relation to any trade commerce or business.

b) Where the assessee have the objective of rendering general public utility services but for doing so they first earn income by engaging themselves in activities in the nature of trade, commerce or business or rendering any service in relation to any trade and then apply such income to the charitable objects.

Whereas in the former situation, registration under section 12AA would be allowable and also the exemption under section 11 & 12 but for the latter situation, no such privilege would be allowed as doing of trade, commerce or business or rendering any service in relation to trade commerce or business not treated as charitable activities with the insertion of proviso to section 2(15) of the Income Tax Act, 1961.

Viewed in this context, it is submitted that out of the eighteen judgements relied upon by Shri Y.K. Sood, CA the judgement at S.No.1 to 5, 7, 10, 11,14, 15, 16, 17 & 18 fallen in the former category and the judgement at S. No.9 had not been pressed by Shri Sood. The judgement at S.No.12 pertains to pre-amended provisions of section 2(15) and is thus not applicable. As regards the judgement at S.No.6 & 13, the same run counter to the judgement of the jurisdictional Tribunal's order in the case of Jammu Development Authority which has been confirmed by the J&K High Court and the SLP filed by the assessee has also been dismissed by the Hon'ble Supreme Court. It is pertinent to mention here in the case of India Trade Promotion vs. DGIT (Exemptions), it has been expressly mentioned:

> **"45. To be clear, of any activity in the nature of trade, commerce or business is carried on and it generates income, the fact that such income is applied for charitable purposes, would not make any difference and the activity would nonetheless not be regarded being carried on for a charitable purpose."**

This finding of the Hon'ble Delhi High Court clearly supports the cause of the revenue as the precise nature of the activities is the same as articulated by the Hon'ble Delhi High Court in the above paragraph. It is further submitted that at para 58, the Court has observed that the provisions of section 2(15) need to be read down but such reading has been contemplated in the context of section 10(23C)(iv) of the Income Tax at, 1961 and when read in its totality, the judgement support the case of the revenue as it squarely supports a case where the intention is to do charity by activities which may embark upon any trade commerce or business or rendering any service in the nature of trade, commerce or business and not that income accrues due to the exigency of undertaking general public utility activities.

It is further submitted the judgement in the case of City & Ind. Dev. Corp. of Maharashtra vs. ACIT reported at S. No.2 is project specific and further it has

been held by the Hon'ble Tribunal Mumbai 'C' Bench that assessee is an agent of the Government and does not hold any independent entity whereas the trusts are a corporate body and have perpetual succession and common seal and can sue and be sued in its name as per section 3 of the Punjab Town Improvement Trust Act, 1922. In view of this difference also, the said judgment is not applicable to this case.

It is further submitted that the trusts do not get any grant in aid from the state government. The Trusts have to first do business like a builder to earn money i.e. it purchases (acquires) property and divides the same into plot or build the same and sells the plot or the buildings which it raises both by way of reserve price (residential buildings or plots) and commercial plots or commercial buildings by auction. There is absolutely no doubt that when land or buildings are put on auction by the Trust, the intent is to make maximum profit and when it sells residential plots or residential buildings, it sells the same at reserve price. It is submitted that reserve price so fixed is fixed in such a manner a may take within its sweep huge profit a would be seen from the Annexure at page 9 of the paper book filed by Shri Z.S. Bhasin, Advocate which includes the following :

a) Conservancy charges for 5 years @ 10 percent per month per acre.
b) Provisions for unforeseen charges @ 15% per cent of total reserve price a computed as per the said annexure.

This clearly shows that even the reserve price at which residential plots or buildings are sold, there is huge element of profit in the garb of conservancy charges for five years @ 10% of the total reserve price and also provision for unforeseen charges @ 15% of the reserve price so determined. It is pertinent to mention here that all the unforeseen charges have already been contemplated in the computation of reserve price under the head "Overhead Charges" at sub-para (v) where provision for "other public Utility' has already been considered.

It is further submitted that along with copy of the Punjab Town Improvement (Utilisation of Land and Allotment of Plots) Rules, 1983, Shri Bhasin has appended a report dated 04.06.2015 which is in Gurmukhi script and its English translation as under :-

"It is worth mentioning here that Improvement Trust gets no grant from the Government. Trust gets its income from sale of plots/shops/commercial sites only. Other than this, the Trust has no other additional source of income. The Trust spends the income generated out of the said activities on the public utility services."

It clearly shows that there is admission that the Trust with the intention of providing public utility services first does business of purchase and sale of landed property like a builder and after earning as huge profit s possible i.e. by putting the reserve price at a high pitched figure and also putting the commercial plots and commercial building on auction, it spends on such public utility services which is eminently hit by the proviso to section 2(15) of the Income Tax Act, 1961. It clearly falsifies the claim of Mr. Bhasin that trusts have income from other sources as contemplated in section 68 of the Act. This shows that the government does not give to Trusts what it itself has assured the Trusts in the Act. It may further be mentioned that trusts are not agent of the State as if it were so, there would not have been any provision as section 70 in the Act which empowers the state government to attach the rents and other income of the trust. Ait is submitted that the factum of the trusts making exorbitant profit is best elucidated from the way the Improvement Trust Pathankot has sold a plot of land

to Income Tax Department. The price it had informed to the department in 2011 was Rs.5,03,30,800/- but in the year 2014, the price for the same plot was intimated at Rs.10,43,65,946/-. Thus in a period of three year and a half, it had more than doubled the price of its plot measuring 60.35 marlas. An affidavit of Shri Charan Dass, ACIT, Pathankot is enclosed in support of this fact. If this is the way the Trust does charity by way of developing cities and town then certainly, it amounts to robbing Peter to pay Paul and surely such an activity cannot be clothed as charitable activity.

In view of above, it is prayed that the appeals of the assessee be dismissed

<u>B: In the case of Amritsar Improvement Trust</u>

It is submitted the above appeals have been restored by the Hon'ble Punjab & Haryana High Court to the tribunal vide its order in ITA No.100 of 2014 (O&M) dated 06.08.2014 as per the directions contained in para 8 of the order.

It is submitted that though the Hon'ble Punjab & Haryana High Court has directed the Tribunal to adjudicate the issue regarding the nature of activities of the appellant trust whether they are in the nature of charitable within the meaning of section 2(15) of the Act in respect of assessment years in question or not, keeping in view the arguments raised by the learned counsel for the appellant-assessee.
It is submitted that the activities of the Trust are not in the nature of charitable for multiple reasons, i.e.

A. The assessee trust is engaged in the sale and purchase of properties with a commercial motive. First, it purchases landed properties including plots and sells the plot in two categories i.e. residential and commercial. The residential plots are sold at reserve price which is fixed by including abnormal profits in the garb of :

a) Conservancy charges for 5 years @ 10% per month per acre
b) Provisions of unforeseen charges @ 15% per cent of total reserve price is computed as per the Annexure to the Punjab Town improvement (Utilisation of Land and Allotment of Plots) Rules, 1983 (copy already submitted in Jalandhar Improvement Trust's case in ITA No.402/ASR/2014).

It is clear that the residential plots/buildings are sold with profit motive and thus partake the commercial character though for the allottees the same is for residence purposes. Thus, it is clear that this activity is commercial activity for the assessee Trust.

The Trust sells the plots/buildings by way of open auction with a fixed reserve price and tries to get as much as profit as is possible and if the bidders do raise the bid beyond the reserve price, the auction is cancelled. Thus, it is clear that in this activity also no charity is involved.

Reliance in this regard is placed on the judgement of the Hon'ble Andhra Pradesh High Court in the case of Andhra Pradesh State Seed Certification Agency V Chief Commissioner of Income Tax & Others report 83 DTR 0023 (Copy enclosed for kind perusal). In this judgement, the Hon'ble Court has held :-

> **"that the petitioner was engaged in certifying the varieties of seeds grown by the clients who finally carry out trade or commerce in certified seeds grown by the clients who finally carry out trade or commerce in certified seeds. Thus, petitioner had rendered its services not directly to farmers**

but was rendering its services directly to its clients/agents who are engaged in trading of the certified seeds with profit motive. Activities of the petitioner had not indicted involvement of any charitable activity or advance of any other object of general public utility. Functioning of the petitioner was akin to a corporate profit earning service provider."

The Trust also sells plots and building for commercial purposes to persons who do business for their own gain and likewise the Trust cannot be said to be doing any activity of charitable name as its activities fall, struco sensu, in the same domain as the activities of the Andhra Pradesh State Seed Certificate Agency (supra) fall. Its activity of selling plot and building for residence to persons though for the allottee it may not for commercial purpose but the way the Trust fixes its reserve price as discussed above, it is clear that the activity is commercial in nature for the Trust and not charitable.

It is further pertinent to mention here that when the trust fixes the reserve price for residential as well commercial plots or buildings, it includes in its cost all the amenities which it promises to the people including all development charges like roads, sewerage, water supply, storm water drainage, street lighting and local distribution system and unjustified cost as per rough cost estimate of Punjab State Electricity Board and also provision for landscaping and further increased by overhead charges as mentioned at para 2 & 3 of the Annexure.

Thus, it is clear that the trust provides no amenity which is the sole claim of the assessee Trust. It may be submitted that this Annexure has already been brought to the notice of the Hon'ble Bench in the case of Jalandhar Improvement Trust in ITA No.402/ASR/2014.

Now coming to the two decisions which the Hon'ble Bench asked the undersigned to comment upon. It is submitted in the case of Stock Exchange Ahmedabad V Assistant Commissioner of Income tax reported at 74 ITD 0001, it may be submitted that as discussed above, there is no element of cy press involved in the activities of the Trust. It may be mentioned here that the most distinguishable feature is the Trust is it is rendering no general public utility as whatever public utility service it is providing, it first recovers its cost from the buyers as discussed above. Further, it is submitted that the decision in the case of ITO Vs. Trilok Tirath Vidyavati Chuttani Charitable Trust of Chandigarh 'B' Bench reported at 90 ITD 569 does not hold good for two reasons:

The Hon'ble Punjab & Haryana High Court in the above order had restored the issue to the Bench being well aware of the fact that the Trust had been granted registration by the Bench. The High Court clearly did not hold that once the registration is granted, exemption under section 11 cannot be denied to the assessee on the ground that it was not a charitable institution. If this decision of the Tribunal is to prevail then restoration of the issue to the Tribunal by the High Court would become redundant.

It is submitted that submissions made in the case of Jalandhar Improvement Trust and other trust during the course of hearing of Trusts' cases are also pressed into service in these appeals. In view of the above submissions, it is prayed that the issue may kindly be decided in favour of the revenue."

35. While dealing with the profit motive allegation of the revenue authorities, it is essential to appreciate the difference that profit on sale does not essentially and necessarily imply profit motive in activities of the assessee trust. What is important is the motive or predominant object of the activities. As we do so, we may only make a note of the following observations made by a coordinate bench decision in the case of **Devki Devi Foundation Vs DIT [(2015) 56 taxmann.com 56 (Delhi)]**:

> **29……The soul of charity is benevolence and generosity towards others and the community at large. Of course, it is important as to what are the activities of a charitable institution but what is even more important is what is the predominant motivation for such activities. No activity, by itself, could be charitable in nature when it is dominated and triggered by economic greed. There is no difference in what a soldier and a mercenary does, both use bullets to defend their interests, but while a soldier does it out of patriotism, a mercenary does it for monetary gain. The action is the same, and yet motivation for the actions are so materially different that the character of activity is altogether changed. Clearly, underlying motive and trigger for doing what a person does is, is important for determining whether such an action is in the course of business or charity. What is really, therefore, required to be carefully examined, in order to find whether an act of the institution is charitable or not, is not only to assess the work being done by the institutions, which claim to be pursuing charitable activities, but also the economic dynamics and motivations of such activities.**

36. Learned Departmental Representative has pointed out that the commercial plots and units are auctioned off which shows that the idea is to make maximum profits but what he clearly overlooks is the fact that since it is not a desirable state of affairs for the State to subsidize businesses, and to ensure highest degree of transparency in maximising returns from public assets, competitive bidding for commercial units is a safe option, and that the use of bidding process is justified for the larger causes. The bidding process ensures transparency in functioning of the improvement trusts and that, by itself, does not make the functioning of the improvement trust a commercial venture. It is also important that this use of bidding process is only in the context of commercial units etc. The development of commercial areas is in the interest of planned growth of an area and when such commercial areas develop, all the stakeholders in the development of that area benefit. In order of this benefit to the common cause, it is not necessary that the businessmen, buying such units,

must also benefit. The denial of any advantage, at the cost of general public, to the business entities buying the commercial areas, in our considered view, does not amount to an defeating an object of general public utility. In this context, it is important to understand the benefit from developing commercial areas, which is for public good, and benefit to the business persons in buying these units from the assessee trust, which can only be for the good of benefit of these entrepreneurs. As for the sale of residential units, it is an admitted position that in terms of the **Punjab Town Improvement (Utilization of Land and Allotment of Plots) Rules, 1983,** there is a formulae on the basis of which the price is worked out. Learned Departmental Representative does not dispute that aspect but he alleges profit motive embedded in this formula as shown by adjustments for (a) conservancy changes for 5 years @ 10% per month per acre; and (b) provision for unforeseen charges @ 15% of total reserve price. Firstly, even if this allegation about presence of the two elements only to maximize the profit be taken as correct, it is important to bear in mind the fact that this is not the presence of profit element in the activities which vitiates charitable character of the activities but it is the absence of restrictions on making profits which vitiates the charitable character of the activities. In the **Indian Chamber of Commerce** *(supra),* which has been relied upon by the Assessing Officer and referred to in CBDT Instruction no. 1024 *(supra),* it has been stated thus: "**Ordinarily profit motive is a normal incident of business activity and if the activity of a trust consists of carrying on of 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 for profit.**". That apart, mere presence of these two items does not show that the underlying object of including these two items in the formula was profit maximisation. The inclusion for provision for unforeseen charges, in our understanding, is a fair and conservative approach to ensure that the costs incurred by the assessee trust are recovered from the end buyers of the residential units or land. The element of charity is not in giving away the residential units at subsidized or low prices

but in pursing the object of advancement of object of general public utility in planned development of the are in accordance with the policies of the State Government.

37. A lot of emphasis has been made by the learned Departmental Representative on the fact that nothing, or very little, has been done by the trusts for the poor people but what this argument overlooks is that the assessee trust is not granted registration under section 2 (15) for implementing poverty alleviation programs or doing other acts of charity but it is granted registration because what it is pursuing, by following the State Government policies for planned development of city, is advancement of an object of general public utility. Pursuing an object of general public utility does not necessarily involve more noticeable direct acts of charity driven by compassion and benevolence. There is so much to be done by the Government agencies, as these assessee trusts are perceived to be, that no matter what these agencies do, there is still lot left to be done. Just because these agencies could have done more, such expectations, no matter how legitimate, do not obliterate the work done by these agencies and the role played by these agencies for public good in furtherance of advancement of objects of general public utility.

38. Learned Departmental Representative has also pointed out that the assessee trusts donot get any grant from the State Government which shows that first they make profits from land deals and then use the income so earned for the public causes stated. It is for this reason, according to the learned Departmental Representative, that the assessee trust cannot be said to be anything other than a business *simplicitor*. On the contrary, according to the learned Departmental Representative, it is like robbing Peter to pay Paul. We are unable to share these perceptions of the learned Departmental Representative. An object of general public utility does not necessarily require that the activities or the beneficiaries must be funded or subsidized by the State.

As long as broader public cause is served, whether by the State funding or by efficient regulation of the affairs, it is an object of general public utility. It is also important to bear in mind that costs of proper development of area are also costs incidental to the plots and units sold by the assessee and, therefore, these two things should not be seen in isolation. As for the specific instance of inordinate hike in prices within a short period of three and a half years, we are unable to comment upon the same as full facts relating thereto are not on record. That aspect, however, for the detailed reasons set out above, does not affect our conclusion anyway.

39. As for the decision of the coordinate bench in the case of the **Punjab Urban Development Authority Vs CIT [(2006) 103 TTJ 988 (Chandigarh)]**, it is a case in which there is no mention about selling the residential units and plots at the price on the basis of a formulae laid down by the statute. In the present case, there is no dispute on this aspect, and that is a crucial aspect having bearing on the conclusions. There was also no, and could not have been any, occasion to consider the impact, what is referred to as 'kill effect', of the amendments by the Finance Act 2015. The revenue, thus, derives no advantage from this judicial precedent. As regards the decision of the coordinate bench in the case of **Amritsar Improvement Trust** *(supra),* on which so much reliance has been placed by the learned Departmental Representative, it is already set aside by Hon'ble jurisdictional High Court. As a matter of fact, in the course of proceedings before Hon'ble High Court in the cases of other improvement trusts, learned counsel for the revenue has fairly accepted that the decisions of the Tribunal, following the aforesaid decision, are required to be sent back to the Tribunal for fresh determination on the scope of provisions of Section 2 (15). The revenue, thus, derives no advantage from this judicial precedent either.

40. For the reasons set out above, we are of the considered view that the authorities below were not justified in declining the benefit of section 11 read with section 2(15) to the assessee, and in holding that the assessee trust was

not covered by advancement of any object of general public utility. We, therefore, direct the Assessing Officer to delete the disallowance of exemption of Rs 65,20,690. The assesse gets the relief accordingly. Grievances of the assessee are upheld.

41. In the result, ITA No. 496/Asr/ 2013 is thus allowed in the terms indicated above.

42. We now move to ITA No. 18/Asr/2015 filed by the same assessee i.e. Hoshiarpur Improvement Trust.

43. This appeal is directed against the order dated 13th March 2014 passed by the CIT(A) in the matter of assessment under section 143(3) of the Income Tax Act, 1961, for the assessment year 2011-12. Grievance of the assessee, in short, is that, on the facts and in the circumstances of the case, learned CIT(A) erred in declining exemption of Rs 3,28,23,979 under section 11 r.w.s. 2(15) of the Act.

44. Learned representatives fairly agree that whatever we decide in the ITA No. 496/Asr/ 2013 will apply *mutatis mutandis* on this appeal as well. As we have decided that appeal in favour of the assessee, we see no reasons to take any other view of the matter in this case. Respectfully following our decision in the said case, we uphold the grievance of the assessee in this case as well and delete the impugned disallowance of Rs 3,28,23,979. The assessee gets the relief accordingly.

45. In the result, ITA No. 18/Asr/2015 is also allowed in the terms indicated above.

46 We now take up the appeals filed by Amritsar Improvement Trust.

47. In ITA No. 476/ Asr/2011, the Assessing Officer has challenged correctness of the order dated 20th June 2011 in the matter of assessment under section 143(3) of the Income Tax Act, 1961 for the assessment year 2006-07. In ITA No 477/ Asr/2011, the Assessing Officer has challenged correctness of an identically worded order dated 20th June 2011 in the matter of assessment under section 143(3) of the Income Tax Act, 1961 for the assessment year 2007-08.

48. Grievances in these appeals, as pressed before us and in substance, are that on the facts and in the circumstances of the case, learned CIT(A) erred in deleting the disallowance of exemption under 11 r.w.s. 2(15) of Rs 32,16,640 for the assessment year 2006-07 and of Rs 5,39,12,792 for the assessment year 2007-08.

49. Learned representatives fairly agree that whatever we decide in the ITA No. 496/Asr/ 2013 will apply mutatis mutandis on these appeals as well. As we have decided that appeal in favour of the assessee, we see no reasons to take any other view of the matter in this case. Respectfully following our decision in the said case, we reject the grievance of the Assessing Officer in this case and hold that the assessee was indeed eligible for exemption under 11 r.w.s. 2(15) of Rs 32,16,640 for the assessment year 2006-07 and of Rs 5,39,12,792 for the assessment year 2007-08. The action of the CIT(A) is confirmed.

50. We now move to ITA Nos 636 and 637/Asr/2013 i.e. appeals of the assessee for the assessment years 2004-05 and 2005-06. These appeals are directed against the common order dated 4th October 2013 passed by the CIT(A) in the matter of assessments under section 143(3) for the assessment years 2004-05 and 2005-06.

51. As we have decided the core issue of eligibility for tax exemption under section 11 r.w.s. 2(15) in favour of the assessee, in assesse's own case for the other assessment years above, and as no other issue was raised before us, we uphold the grievances of the assessee on this issue. The other issues raised in the appeal, in the light of this conclusion, are rendered academic and infructuous. Grievance of the assessee is upheld in these terms.

52. In the result, ITA Nos 636 and 637/Asr/2013 are also allowed.

53. All the four appeals filed by the Amritsar Improvement Trust are thus allowed in the terms indicated above.

54. We now take up the appeals filed by Pathankot Improvement Trust.

55. In ITA No. 200/Asr/2010, the assessee has challenged correctness of the order dated 18th March 2010 passed by the learned Commissioner under section 263 of the Income Tax Act 1961 for the assessment year 2005-06.

56. By way of the revision order, learned Commissioner had held that the assessee is not covered by Section 2(15) and accordingly not eligible for exemption under section 11 of the Act. This matter was also remitted to us by Hon'ble High Court for fresh decision on the scope of section 2(15) and 11 as referred to earlier. In view of our findings above in the cases of similarly placed trusts, set up under the same statue, this issue is now decided in favour of the assessee. The very foundation of the impugned revision order thus ceases to hold good in law. We uphold the grievance of the assessee and quash the impugned revision order.

57. ITA No. 200/Asr/2010 is thus allowed.

56. In ITA No 336/Asr/2014, the assessee has challenged the order dated 13th March 2014 passed by the learned CIT(A) in the matter of assessment under section 143(3) of the Act for the assessment year 2009-10.

57. Grievance of the assessee, in short, is that the learned CIT(A) erred in declining exemption under section 11 read with section 2(15) on the ground that the assessee was not entitled to exemption under section 11 as the assessee was not covered by the provisions of Section 2(15).

58. Learned representatives fairly agree that whatever we decide in the ITA No. 496/Asr/ 2013 will apply *mutatis mutandis* on this appeal as well. As we have decided that appeal in favour of the assessee, we see no reasons to take any other view of the matter in this case. Respectfully following our decision in the said case, we uphold the grievance of the assessee in this case as well and direct the Assessing Officer to grant relief accordingly. The issue regarding enhancement of income, given the fact that the assessee is entitled to exemption under section 11 in respect of the same as well, is infructuous.

59. ITA No 336/Asr/2014 is also thus allowed in the terms indicated above.

60. Both the appeals filed by the Pathankot Improvement Trust are thus allowed as well.

61. We now take up ITA No. 417/Asr/2013 i.e. appeal filed by the Improvement Trust, Bhatinda.

62. By way of this appeal, the assessee has challenged correctness of the order dated 19th March 2013 passed by the CIT(A) in the matter of assessment under section 143(3) of the Act for the assessment year 2009-10.

63. Grievance of the assessee, in short and in substance, is that learned CIT(A) erred in declining exemption under section 11 read with section 2(15) on the ground that the assessee was not entitled to exemption under section 11 as the assessee was not covered by the provisions of Section 2(15).

64. Learned representatives fairly agree that whatever we decide in the ITA No. 496/Asr/ 2013 will apply *mutatis mutandis* on this appeal as well. As we have decided that appeal in favour of the assessee, we see no reasons to take any other view of the matter in this case. Respectfully following our decision in the said case, we uphold the grievance of the assessee in this case as well and direct the Assessing Officer to grant relief accordingly. The issue regarding certain disallowances, given the fact that the assessee is entitled to exemption under section 11 in respect of the same as well, is infructuous.

65. ITA No 417/Asr/2013 is also thus allowed in the terms indicated above.

66. We now take up ITA No. 402/Asr/ 2014 i.e. appeal filed by the Jalandhar Improvement Trust.

67. By way of this appeal, the assessee has challenged correctness of the order dated 29th May 2014 passed by the CIT(A) in the matter of assessment under section 143(3) of the Act for the assessment year 2010-11.

68. Grievance of the assessee, in short and in substance, is that learned CIT(A) erred in declining exemption under section 11 read with section 2(15) on the ground that the assessee was not entitled to exemption under section 11 as the assessee was not covered by the provisions of Section 2(15). The assessee has raised some other legal issues as well but in the event of the main issue

being decided in favour of the assessee, as learned counsel for the assessee fairly accepts, these issues will be no more than academic.

69. Learned representatives fairly agree that whatever we decide in the ITA No. 496/Asr/ 2013 will apply *mutatis mutandis* on this appeal as well. As we have decided that appeal in favour of the assessee, we see no reasons to take any other view of the matter in this case. Respectfully following our decision in the said case, we uphold the grievance of the assessee in this case as well and direct the Assessing Officer to grant relief accordingly. The issue regarding certain disallowances, given the fact that the assessee is entitled to exemption under section 11 in respect of the same as well, is infructuous.

70. ITA No 417/Asr/2013 is also thus allowed in the terms indicated above.

71. We now take up ITA No. 760/Asr/2014 i.e. appeal filed by the Improvement Trust, Moga.

72. By way of this appeal, the assessee has challenged correctness of the order dated 17th October 2014 passed by the CIT(A) in the matter of assessment under section 143(3) of the Act for the assessment year 2011-12

73. Grievance of the assessee, in short and in substance, is that learned CIT(A) erred in declining exemption under section 11 read with section 2(15) on the ground that the assessee was not entitled to exemption under section 11 as the assessee was not covered by the provisions of Section 2(15).

74. Learned representatives fairly agree that whatever we decide in the ITA No. 496/Asr/ 2013 will apply *mutatis mutandis* on this appeal as well. As we have decided that appeal in favour of the assessee, we see no reasons to take any other view of the matter in this case. Respectfully following our decision in the said case, we uphold the grievance of the assessee in this case as well and direct the Assessing Officer to grant relief accordingly. The issue regarding certain disallowances, given the fact that the assessee is entitled to exemption under section 11 in respect of the same as well, is infructuous.

75. ITA No 760/Asr/2014 is also thus allowed in the terms indicated above.

76. As we part with this matter, we must place on record our deep appreciation for very elaborate and erudite arguments advanced by all the three learned counsel for the assessee, namely, Shri Y K Sud, Shri J S Bhasin and Shri Salil Kapoor as also by learned Departmental Representative Shri Tarsem Lal.

77. In the results, nine appeals filed by the assessee are allowed in the terms indicated above and two appeals filed by the Assessing Officer are dismissed. Pronounced in the open court today on the 10th day of September 2015.

Sd/xx ***Sd/xx***
A D Jain **Pramod Kumar**
(Judicial Member) (Accountant Member)
Dated: the 10th day of September, 2015.

Copies to: *(1)* *The appellant* *(2)* *The respondent*
(3) *CIT* *(4)* *CIT(A)*
(5) *DR* *(6)* *Guard File*

By order etc

Assistant Registrar
Income Tax Appellate Tribunal
Amritsar bench, Amritsar