

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/TAX APPEAL NO. 522 of 2018**

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PRINCIPAL COMMISSIONER OF INCOME TAX (EXEMPTIONS)

Versus

ANIMAL BREEDING RESEARCH ORGANISATION(INDIA)

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Appearance:

MRS MAUNA M BHATT(174) for the PETITIONER(s) No. 1

MR B S SOPARKAR(6851) for the RESPONDENT(s) No. 1

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CORAM: HONOURABLE MR.JUSTICE AKIL KURESHI
and
HONOURABLE MR.JUSTICE B.N. KARIA

Date : 11/06/2018

ORAL ORDER

(PER : HONOURABLE MR.JUSTICE AKIL KURESHI)

1. Revenue is in appeal against the judgment of the Income Tax Appellate Tribunal dated 09.11.2017 raising following question for our consideration:

"Whether, on the facts and in the circumstances of the case and in law, the Tribunal was justified in allowing the benefit of exemptions u/s 11 of the Act without considering the fact that the assessee is involved in widespread commercial activities in nature of business and the activity of the assessee is covered under first and second proviso to section 2(15) of the Act?"

2. Respondent-assessee is a registered Trust. Some of the objects for which the Trust is registered are as under:

"AIMS AND OBJECTIVES

The aims and objects of the Society are as under:

1) The society is established with a view to undertake and promote activities connected with the development of cattle and buffaloes (with special reference to the breeding and genetic improvement) and to engage in other allied activities such as development of draught animal power systems, feed and fodder development for live stock and to extend necessary support persons (including dairy farmers) for carrying out any of such activities in different parts of India and generally to promote economic upliftment of the farmers segment. The society is not established for the purpose of profit.

2) To achieve the aforesaid objectives, the society may carry on all or any of the following activities;"

3. For the assessment year 2011-12, the Assessing Officer during scrutiny assessment noticed that the assessee's principal income of Rs.4.84 crores (rounded off) out of the total income of Rs.5.08 crores (rounded off) arose out of the activity of sale of semen. He was of the opinion that the assessee was engaged in a business which was undertaken with a proper motive and therefore would not fall within the definition of 'charitable purpose' as provided under section 2(15) of the

Income Tax Act, 1961 ('the Act' for short).

4. The assessee carried the matter in appeal. Commissioner of Income Tax (Appeals) allowed the assessee's appeal, upon which, the Revenue approached the Tribunal. The Tribunal by the impugned judgment, referring to the earlier judgment in case of this very assessee and relying upon the judgment of Division Bench of this Court in case of **Director of Income-Tax (Exemption) v. Sabarmati Ashram Gaushala Trust** reported in [2014] 362 ITR 539 (Guj), rejected the Revenue's appeal.

5. In case of **Sabarmati Ashram Gaushala Trust** (supra), under somewhat similar background, this Court had observed as under:

"11. We are wholly in agreement with the view of the Tribunal. The objects of the Trust clearly establish that the same was for general public utility and where for charitable purposes. The main objectives of the trust are to breed the cattle and endeavour to improve the quality of the cows and oxen in view of the need of good oxen as India is prominent agricultural country; to produce and sale the cow milk; to hold and cultivate agricultural lands; to keep grazing lands for cattle keeping and breeding; to rehabilitate and assist Rabaris and Bharwads; to make necessary arrangements for getting informatics and scientific

knowledge and to do scientific research with regard to keeping and breeding of the cattle, agriculture, use of milk and its various preparations, etc.; to establish other allied institutions like leather work and to recognize and help them in order to make the cow keeping economically viable; to publish study materials, books, periodicals, monthlies etc., in order to publicize the objects of the trust as also to open schools and hostels for imparting education in cow keeping and agriculture having regard to the trust objects."

6. In the result, this Tax Appeal is dismissed.

(AKIL KURESHI, J)

ANKIT SHAH

(B.N. KARIA, J)

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THE HIGH COURT
OF GUJARAT

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