IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/TAX APPEAL NO. 2433 of 2009

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE BHARGAV D. KARIA

and
HONOURABLE MR. JUSTICE NIRZAR S. DESAI

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Approved for Reporting	Yes	No
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COMMISSIONER OF INCOME TAX-II
Versus
NANDESARI WATER & UTILITIES LTD

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Appearance:
MR AMAN MIR(10881) for the Appellant(s) No. 1
MR. P.B. Parmar for the Opponent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**
and
HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 15/10/2026

JUDGMENT
(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

Learned Advocate, Mr.Parimalsinh Parmar filed his appearance on behalf of respondent. Registry is directed to accept the same.

1. Heard learned Senior Standing Counsel Mr.Aman Mir for the appellant and learned advocate Mr.P.B.Parmar for the

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respondent.

2. The present appeal is preferred by the appellant under Section 260-A of the Income Tax Act, 1961 (for short "the Act") being aggrieved by the order dated 12.12.2008 passed by the Income Tax Appellate Tribunal, Ahmedabad Branch (for short "the Tribunal) in ITA No.2506/Ahd/2008.

3. This Court, by order dated 11.07.2011, admitted the appeal for consideration of the following substantial questions of law;

> *"Whether the ITAT was right in law and on facts and in law in quashing the order of the CIT rejecting application for registration u/s.12AA of the act overlooking the fact that the primary object of the company was to help member industries and not public at large and also against the ratio laid down by the Hon'ble High Court of Gujarat in ACIT vs. Ahmedabad Mill Owners Association reported in 106 ITR 725(Guj)? "*

4. The facts of the case are that the assessee company was formed on 1st September, 2006 under Section 25 of the Companies Act, 1956, having the main object to build, construct, operate, and maintain water supply schemes,

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drainage schemes, storm water, drainage schemes, gas utility services, etc.

5. The assessee company filed an application for registration under Section 12AA of the Income Tax Act, 1961. However, the same was rejected by the CIT-II on the ground that the activities carried out by the assessee company were not charitable in nature, and the object of the trust is to help the member industries and not the public at large.

6. Being aggrieved, the assessee preferred an appeal being ITA No. 2506/AHD/2008 before the Income Tax Appellate Tribunal (for short as "the Tribunal"), Ahmedabad Bench, by order dated 09.05.2008.

7. The Tribunal, after considering the contentions of both sides and perusal of the material, and having considered the decisions relied upon by the assessee, held that the activities carried on by the assessee company were charitable in nature and the object of the trust is to help the other member industries, i.e. public at large. The Tribunal, therefore, by the impugned order, set aside the order passed by the CIT and directed the revenue authority to consider the application for registration under Section 12AA of the Act.

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8. The issue is no more *res integra* in view of the decision of this Court in the case of ***The Commissioner of Income Tax (Exemption) v. Salej Rotary Seva Foundation, rendered on 29th June, 2026 in Tax Appeal No. 791 of 2025***, wherein, in similar facts, after considering the decision in the case of ***CIT (Exemption) v. Bayath Katchhi Dasha Oswal Jain Mahajan Trust, reported in [2016] 74 Taxmann.com 199 (Gujarat)***, the order passed by the Tribunal considering the Memorandum of Association of the assessee containing the objects for which the trust was formed, this Court had dismissed the appeal of the revenue by observing as under;

> *" 5 None of the above main objects refers to religious activities as observed by the CIT (Exemption) and referred to by the learned advocate for the appellant. The various activities referred to in objects incidental or ancillary to the attainment of the main objects i.e. Object No.13 and 25 referred to by the learned advocate for the appellant also do not refer to any religious activity. It is also evident that the aforesaid objects are for the benefit of public at large.*
>
> *6 This Court in the case of* ***Bayath Kutchhi Dasha Oswal Jain Mahajan Trust(supra),*** *after considering the objects of the said Trust has held as under:*

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"7. It can thus be seen that the Commissioner focused his attention to clause 4.2 of the objects of the trust to come to the conclusion that the same were for the benefit of a certain religious communities only, in the process ignoring various other objects, for e.g. as per clause 4.1, the trust would engage itself in activities relating to education by maintaining and running education centers, infant schools, primary and secondary and high schools, colleges etc., to run hostels, training centers for creating awareness in the common people and to make the education available for the public. It would also engage in imparting training in computers. As per clause 4.3, the trust would engage in doing all activities for medical help and to establish and administer dispensaries, hospitals and laboratories etc. It would also help the patients by supplying medicines and financial assistance. Likewise in clause 4.4 the trust could engage in rural development schemes. As per clause 4.5, the trust would engage in literary and cultural activities by making efforts for the development and protection of Indian culture. Clause 4.6 which pertains to other included activities such as running cow shelters, to provide food, cloth and financial help for economically weaker persons, to help during natural or other calamities, to serve humans and animals etc.

8. Thus, very premise for the Commissioner to

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> *come to the conclusion that the objects of the trust were confined for the benefit of a religious community is incorrect. Thereafter to suggest that the activities were carried out only for such purposes would be entering in the realm of granting exemptions in terms of Section 13 of the Act, which would be the task of the Assessing Officer to be undertaken at the time of assessment on the basis of material that may be brought on record."*

> *7 In view of the above settled position of law as well as in the observations made by the Tribunal for allowing the appeal filed by the respondent – Trust and considering the main objects of the Trust, we are of the opinion that no question of law, much less any substantial question of law arises from the impugned order of the Tribunal."*

9. In view of the above settled legal position as well as the factual finding arrived at by the Tribunal that the respondent assessee was carrying out the activity for member industries, i.e. public at large, the same would be covered within the eligible charitable activity under Section 2(15) of the Act.

10. This Court has also held similar facts in favor of the assessee in the case of ***CIT v. Ahmedabad Millowners' Association, reported in 106 ITR 725 (Gujarat)***, which is referred to and relied upon, as well as the ***Bar Council of***

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Maharashtra v. CIT, [1981] 126 ITR 27 (Bombay), and relying upon such decisions, the Tribunal has allowed the appeal of the assessee.

11. In view of the foregoing reasons, the question of law is answered in favor of the assessee and against the revenue. Therefore, the appeal is accordingly dismissed.

(BHARGAV D. KARIA, J)

(NIRZAR S. DESAI,J)

BHAVIN MEHTA

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