M/S Deshpande Education Trust vs The Assistant Commissioner Of

Karnataka High Court M/S Deshpande Education Trust vs The Assistant Commissioner Of on 17 December, 2025 Author: S G Pandit Bench: S G Pandit -1- ITA No.100009 of 2017

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD DATED THIS THE 17TH DAY OF DECEMBER, 2025 PRESENT THE HON'BLE MR. JUSTICE S G PANDIT AND THE HON'BLE MRS JUSTICE GEETHA K.B. ITA NO.100009 OF 2017

BETWEEN:

M/S DESHPANDE EDUCATION TRUST DCSE BUILDING, BVBCET CAMPUS, VIDYANAGAR, HUBLI-580031. (R/BY ITS MANAGING TRUSTEE, SRI. NAVEEN JHA, S/O UDAI CHAND JHA AGED ABOUT 39 YEARS) ...APPELLANT (BY SRI. CHYTHANYA K.K., SENIOR COUNSEL FOR SRI. S. SHARATH AND SRI. SHASHANK HEGDE, ADVOCATES)

AND:

1. THE ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 1(1), C.R. BUILDING, NAVANAGAR, HUBLI-580 025.

2. THE DEPUTY COMMISSIONER OF VISHAL INCOME TAX CIRCLE 1(1), NINGAPPA PATTIHAL C.R. BUILDING, NAVANAGAR, HUBLI-580 025. Digitally signed by VISHAL NINGAPPA PATTIHAL ...RESPONDENTS Location: HIGH COURT OF KARNATAKA DHARWAD BENCH (BY SRI. M. THIRUMALESH, ADVOCATE)

THIS ITA IS FILED UNDER SEC.260A OF THE INCOME-TAX ACT 1961, PRAYING TO FORMULATE THE SUBSTANTIAL QUESTION OF LAW AND ALLOW THE APPEAL AND SET ASIDE THE IMPUGNED ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL, BENGALURU 'A' BENCH BEARING IN ITA NO.1422 AND 1423/BANG/2016, DATED 13.10.2016 FOR THE ASSESSMENT YEARS 2011-12 AND 2012-13 & ETC.

THIS ITA HAVING BEEN HEARD AND RESERVED ON 11.11.2025 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, S G PANDIT J., DELIVERED THE FOLLOWING: -2- ITA No.100009 of 2017

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT AND THE HON'BLE MRS JUSTICE GEETHA K.B.

CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE S G PANDIT) The assessee-M/s Deshpande Education Trust1 is in appeal under Section 260A of the Income Tax Act, 19612 aggrieved by the Order of the Income Tax Appellate Tribunal, 'A' Bench, Bengaluru3 dated 13.10.2016 in ITA Nos. 1422 and 1423 (Bang) 2016 for the assessment years4 2011-12 and 2012-13, wherein, the appeals filed by the appellant challenging the orders of the learned Commissioner of Income Tax (Appeals), Hubli5 were dismissed.

2. The appeal was admitted on 20.11.2017 to examine the following substantial questions of law:

i. Whether, in the facts and in the circumstances of the case, the Tribunal was right in law in holding that the activity of the appellant is not education but 'advancement of any other object of general public utility'?

1 Hereinafter referred to as 'Appellant' 2 Hereinafter referred to as 'The Act' 3 Hereinafter referred to as 'Tribunal' 4 Hereinafter referred to as 'AY' 5 Hereinafter referred to as 'CIT(A)' -3- ITA No.100009 of 2017 ii. Without prejudice to the above, whether in the facts and in the circumstances of the case, the Tribunal is right in holding that activity of the appellant is in the nature of trade, commerce or business and hit by the first proviso to section 2(15)?

iii. Whether, the finding of the Tribunal that the appellant is collecting hefty fee, making huge profits and carrying business is perverse? BRIEF FACTS:

3. The appellant is a registered trust under Section 12AA of the Act engaged in the activity of running coaching classes and training programmes for skill development and vocational training to students by charging fees. The appellant filed the return of income for AYs 2011-12 and 2012-13 declaring nil income on 26.07.2011 and 26.09.2012, respectively. The case of the appellant for AY 2011-12 was selected for scrutiny and notices under Section 143(2) and Section 142(1) were issued to the appellant on 20.09.2012. Subsequently, the case of the appellant for AY 2012-13 was selected for scrutiny and notice under Section 143(2) and notice under Section 142(1) were issued to the appellant on 18.09.2013 and 15.10.2014, respectively. -4- ITA No.100009 of 2017

4. The Respondent No.2-Assessing Officer6 passed the assessment Order for AY 2011-12 under Section 143(3) of the Act on 29.11.2013 denying the exemption claimed by the appellant under Section 11 of the Act and assessing the total income of the appellant at Rs. 6,19,527/-. Further, Respondent No.3-AO passed the assessment Order for AY 2012-13 under Section 143(3) of the Act on 14.11.2014 denying the exemption claimed by the appellant under Section 11 of the Act and assessing the total income of the appellant at Rs.3,41,730/-.

5. Aggrieved by the orders of the AO, the appellant filed appeals before the Learned CIT(A) for both the AYs 2011- 12 and 2012-13 which came to be dismissed on 08.02.2016 and 31.03.2016, respectively. Challenging the Orders of the Learned CIT(A), the appellant filed appeals before the Tribunal. The Tribunal vide common impugned Order dated 13.10.2016 has dismissed the appeals filed by the Appellant and has held that activity of the appellant is in the nature of 'advancement of any other object of general public utility' and 6 Hereinafter referred to as 'AO' -5- ITA No.100009 of 2017 the proviso to Section 2(15) of the Act gets attracted and hence, the appellant shall not be entitled to exemption under Section 11 of the Act. Hence, the present appeal.

6. Heard learned senior counsel Sri. Chythanya K.K. for learned counsels Sri. S Sharath and Sri. Shashank Hegde for the appellant and learned counsel Sri. Thirumalesh for Respondents-Revenue Authorities.

7. Learned senior counsel Sri. Chythanya K.K. would submit that the Appellant is engaged in the activity of training rural youth to develop their skills in the area of science, technology, arts, etc. by providing various programmes in order to make them employable. He would submit that the activity of running coaching classes, done in a systematic manner by providing training or instructions to students is covered under the ambit of 'education' as employed in Section 2(15) of the Act. Learned Senior Counsel has relied upon a catena of decisions to submit that the activity of running vocational training or coaching classes is covered under the term 'education'. He would further submit that the mere existence of profits or the mere generation of surplus from the -6- ITA No.100009 of 2017 activities carried out by the appellant would not mean that the activities carried on by the appellant is in the nature of business, trade or commerce. Learned senior counsel would also submit that the 1st proviso to Section 2(15) of the Act does not apply to the appellant, as the activities carried on by the appellant is in the nature of 'education' and not 'advancement of any other object of general public utility'. In the alternative, learned senior counsel for the appellant would also submit that, even if the activities of the appellant is classified as falling under 'advancement of any other object of general public utility', exemption is ought to be granted to the appellant, as the objects of the appellant neither involve any trade, commerce or business nor involve any profit motive. Thus, learned senior counsel would pray for allowing the appeal.

8. Per Contra, learned counsel for the Revenue, Sri. Thirumalesh would submit that the activities that the appellant is engaged in is rightly classified as falling under 'advancement of any other object of general public utility' by the Learned AO, CIT(A) and the Tribunal. He would submit -7- ITA No.100009 of 2017 that the appellant's activities for the year under consideration is to run coaching classes by collecting hefty fees and hence, would not fall under the ambit of 'education'. Learned counsel for the revenue would also submit that the appellant has failed to produce relevant documentary evidence before the authorities below to prove that the appellant's object is that of charitable purpose, i.e. education to be specific. He would further submit that the appellant's activities are in the nature of trade, commerce or business and hence the 1st proviso to Section 2(15) of the Act is attracted. Thus, he would pray for dismissing the appeal.

9. Having heard the learned counsels for the parties and having perused the entire appeal papers, the fulcrum of the appeal lies in the issue as to whether activities engaged in by the appellant can be construed as 'education' as employed in the definition of 'charitable purposes' under Section 2(15) of the Act. Section 2(15) of the Act reads as follows:

"(15) "charitable purpose" includes relief of the poor, education, yoga, medical relief, preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest, and the -8- ITA No.100009 of 2017 advancement of any other object of general public utility:

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;"

10. The term 'education' has not been defined in the Act. However, the Hon'ble Apex Court in Lok Shikshana Trust v. CIT, reported in (1976) 1 SCC 254 has explained the term 'education' as employed in Section 2(15) of the Act and held as under:

"5. The sense in which the word "education"

has been used in Section 2(15) is the systematic instruction, schooling or training given to the young in preparation for the work of life. It also connotes the whole course of scholastic instruction which a person has received. The word "education" has not been used in that wide and extended sense, according to which every acquisition of further knowledge constitutes education. According to this wide and extended sense, travelling is education, because as a result of -9- ITA No.100009 of 2017 travelling you acquire fresh knowledge. Likewise, if you read newspapers and magazines, see pictures, visit art galleries, museums and zoos, you thereby add to your knowledge. Again, when you grow up and have dealings with other people, some of whom are not straight, you learn by experience and thus add to your knowledge of the ways of the world. If you are not careful, your wallet is liable to be stolen or you are liable to be cheated by some unscrupulous person. The thief who removes your wallet and the swindler who cheats you teach you a lesson and in the process make you wiser though poorer. If you visit a night club, you get acquainted with and add to your knowledge about some of the not much revealed realities and mysteries of life. All this in a way is education in the great school of life. But that is not the sense in which the word "education" is used in clause (15) of Section 2. What education connotes in that clause is the process of training and developing the knowledge, skill, mind and character of students by formal schooling." (emphasis supplied)

11. The Hon'ble Apex Court has clarified that 'education' connotes the process of training and developing the knowledge, skill, mind and character of students by formal schooling. Thus, the test which has been laid by the Apex Court in Lok Shikshana Trust (supra) is as to whether a formal and systematic process of imparting education has been followed. It is clear that 'education' as under Section 2(15) of the Act needs to be given a wide definition and not merely restricted to that of 'school' or 'collegiate' education, - 10 - ITA No.100009 of 2017 however, the same needs to be in consonance with the test laid down supra. It is in line with the aforesaid principles, that the appellant's case needs to be decided.

12. It is not in dispute that the appellant is engaged in the activity of providing vocational training to rural youth to develop their skills in the area of science, technology, arts, etc. by providing various programmes in order to make them employable in exchange of fees. The Trust Deed dated 04.09.2010 was placed on record before this Court which sets out the objectives of the trust. The relevant extract of the objectives of the trust is reproduced hereunder: -

"The objectives of the Trust shall be wholly for the public and charitable purposes and the income shall be applied for the same and accumulated in India wholly for public & charitable purposes. Without prejudice to generality of foregoing, the following shall be deemed to be the principal objectives of Deshpande Educational Trust I. To establish, own, run, takeover or manage and maintain or contribute towards establishment and maintenance of schools, colleges, libraries, institutes, training institutes, and programs of study with an object to provide sound pre- primary, primary, middle, secondary, senior secondary higher, graduate and post-graduate education to children and students by seeking recognition and to give instruction and training to faculty, students, and educators in all branches of knowledge and leaming including,

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but not limited to, arts, science and commerce, management, human resources, medical, engineering, information technology, leadership, entrepreneurship and innovation.

II. To focus on, engage, promote, and incubate activities and programs related to, but not limited to, youth development, budding entrepreneurs, local leadership, vocational training, high-end technology, community collaboration, product design, social enterprise, and mentorship.

III. To foster and inculcate the culture of innovation, entrepreneurship, w scale/growth, and leadership within the nation's educational system and programs, including activities related to education and its improvement.

IV. To arrange and manage the training institutions in computers and technology, fine arts, music, painting, modeling, dancing, yoga, physical education and in other professional training subjects.

V. To conduct research in education and other disciplines on different subjects relating to, but not limited to, education, impact measurement, curriculum development, training programs, survey design, leadership development, student assessment, health, education, agriculture, livelihoods, the environment, gender, child rights and disability VI. To promote literacy, cultural and other social activities by awareness programs/adult education classes, lectures, exhibitions, symposiums, cultural programs, press conferences, workshops, conferences and seminars.

VII. To provide and facilitate infrastrücture pertaining to and supporting education, including but not limited to food, clothes, books, medical aid, stationary, transportations /conveyance, libraries, laboratories, reading

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rooms, hostels, play grounds, swimming pools and other facilities to students, teaching and non-teaching staff and also to members of the society VIII. To promote prizes, scholarships, exhibitions and funds for the purpose of promoting and improving the education of all branches of knowledge and learning.

IX. To arrange and organize various kinds of child development and empowerment programs/ activities X. To facilitate the exchange of ideas and knowledge between members and the larger society (as defined by local, state-wide, national, or international parties interested in and working in the field of education), and the community in general by holding lectures, seminars, discussion groups, exchange, conferences, and workshops or other means, and to establish and maintain libraries of pertinent publications XI. To pay tuition fees, examination fees, boarding and lodging fees to deserving students and to supply books and educational materials at a market price, subsidized rate or free of cost to such students.

XII. To establish a hostel with all amenities for the students and other teaching/non-teaching staff.

XIII. To conduct leadership, entrepreneurship, high-technology and, management education programs for the corporate, non-governmental organizations, government institutions and other private sector entities. and organizations, including funding faculties to conduct such programs.

XIV. To conduct and facilitate trainings for faculty, educators, and corporations on subjects including, but not limited to, curriculum

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development, management, entrepreneurship, leadership, organization building and innovation.

XV. To affiliate with national and international universities, institutions, autonomous bodies, centers, governments, funding agencies (including private, bi- and multi-lateral agencies), corporations, social enterprises and other leading educational institutions including e-learning programs or distance learning institutions.

XVI. To publish books, magazines, case studies, literature, research articles, journals, videos, photographs, audiovisual materials, websites, blogs, and other content by utilizing the expertise available in house and from other resource persons.

XVII. To aid, assist, donate or otherwise contribute funds to societies, institutions, trusts and other funds recognized under Section 80 (G) of the Income Tax Act, 1961.

XVIII. To do such other things/acts/activities, which are necessary and which may be incidental or conducive to the attainment of any of the object of the Trust. XIX. To devote resources for advancing finance to poor and needy students for their education and to identify such students in order to give them this benefit."

13. As seen from the objectives, the appellant trust was formed for the purpose of undertaking charitable activities through education for the empowerment of the underprivileged, poor and women viz vocational training and skill development. A coordinate bench of the High Court of Punjab and Haryana in Commissioner of Income Tax - 14 - ITA No.100009 of 2017 (Exemptions) v. Unique Educational Society reported in [2024] 168 taxmann.com 448 (P & H), held that vocational education is a form of education and that it has been recognized to be, as important as any other field of education. The relevant extract of the judgement reads as under: "14.In view of above, the law as laid down by the Supreme Court requires to be applied and the view expressed by the Kerala High Court cannot be accepted to be the correct interpretation. We are also of the firm view that vocational education is a form of education which is necessary for the development of an individual for the purpose of earning his living. Vocational training has been now recognized to be as important as any other filed of education, and it is for this reason that National Council for Vocational Training has been established to streamline and lay down a systematic pattern of providing education. As the institute is duly approved by the NCVT, it cannot be said that the institute is not imparting education."

14. In the case on hand as well, the appellant's activity includes vocational training for the development of soft skills of underprivileged, poor and women to develop their skills in the area of science, arts, business and commerce by providing various programmes in order to make them employable. The activity that the appellant is indulged in includes systematic instructions or training which involves the process of teaching and learning various subjects. Moreover, in the subsequent AYs, the appellant has affiliated with Karnataka University, - 15 - ITA No.100009 of 2017 Dharwad and is offering Master of Social Entrepreneurship Course in exchange of fees. Hence, it cannot be stated that the activities offered by the appellant are not 'education' under Section 2(15) of the Act.

15. The reasoning given by the AO, CIT(A) as well as the Tribunal in denying the claim for exemption is that hefty fees has been charged by the appellant for providing their services and that there is a major surplus that has been generated. A perusal at the Books of Accounts would indicate that in both the AYs, there has been a surplus that has been generated. However, mere generation of surplus is not a ground to deny exemption to the

appellant. The Hon'ble Apex Court in CIT v. Surat Art Silk Cloth Manufacturers' Assn., reported in (1980) 2 SCC 31 in paragraph 19 has held as under:

"19. 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 case [(1976) 1 SCC 254 : 1976 SCC (Tax) 14 : (1975) 101 ITR 234] as well as Indian Chamber of Commerce case [(1976) 1 SCC 324 : 1976 SCC (Tax) 41 : (1975) 101 ITR 796] . It was said by Khanna, J. in Sole Trustee, Loka Shikshana Trust case [(1976) 1 SCC 254 : 1976 SCC (Tax) 14 : (1975) 101 ITR 234] :

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"[I]f 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 the Indian Chamber of Commerce case [(1976) 1 SCC 324 : 1976 SCC (Tax) 41 : (1975) 101 ITR 796] 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 prescription 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 qualify 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. 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 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 - 17 - ITA No.100009 of 2017 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 supplied)

16. Moreover, the Hon'ble Apex Court in Queen's Educational Society v. CIT, reported in (2015) 8 SCC 47 summarised the principles as to 'charitable purpose' qua 'Education'. Albeit, the provision in question in Queen's Educational Society (supra) was Section 10(23-C) of the Act, it is relevant to produce paragraph 11 of the judgement which assumes significance, which is as under:

"11. Thus, the law common to Sections 10(23- C)(iii-ad) and (vi) may be summed up as follows:

(1) Where an educational institution carries on the activity of education primarily for educating persons, the fact that it makes a surplus does not lead to the conclusion that it ceases to exist solely for educational purposes and becomes an institution for the purpose of making profit.

(2) The predominant object test must be applied--

the purpose of education should not be submerged by a profit-making motive. (3) A distinction must be drawn between the making of a surplus and an institution being carried on "for profit". No inference arises that merely because imparting education results in making a profit, it becomes an activity for profit. - 18 - ITA No.100009 of 2017 (4) If after meeting expenditure, a surplus arises incidentally from the activity carried on by the educational institution, it will not cease to be one existing solely for educational purposes. (5) The ultimate test is whether on an overall view of the matter in the assessment year concerned the object is to make profit as opposed to educating persons." (emphasis supplied)

17. A reading of the afore-extracted judgements would make it abundantly clear that, mere generation of profit/surplus would not be a ground for the Revenue Authorities to deny the claim for exemption to the assesses. However, the profits/surplus so generated should be used solely for educational purposes only. CBDT Circular No. F. 194/16-17-IT(A-I) also clarified the same. It is reproduced hereunder:

" Circular: No. F. No. 194/16-17-II(A-D).

Availability of exemption - Where educational institutions/hospitals are making profits

1. A number of instances have come to the notice of the Board where action to assess educational institutions and hospitals have been taken on the ground that they are making profit and, therefore, the exemption under section 10(22) and 10(224) is not available to them

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2. Under section 10(20) income of an university or other educational institutions existing solely for educational purposes and not for purposes of profit is exempt. Under section 10(224) income of a hospital or other institution referred to therein which exists solely for philanthropic purposes and not for purposes of profit is also exempt.

3. The question for consideration is whether an educational institution existing solely for educational purposes but which shows some surplus at the end of the year is eligible for this exemption. If the profit of the educational institution can be diverted for the personal use of the proprietor thereof, then the income of the educational institution will be subject to tax However, there may be cases where the educational institutions may be owned by the trusts or societies to whom the provisions of section 11 may be applicable. Where all the objects of these trusts are educational, and the surplus, if any, from running the educational institution is used for educational purposes only, it can be held that the institution is existing for educational purposes and not for purposes of profit. However, if the surplus can be used for non-educational purposes, it cannot be said that the institution is existing solely for educational purposes and such institutions will not be liable for exemption u/s 10(22). But, in such cases, the applicability of section 11 can be examined and if the conditions laid down therein are satisfied, the income will be exempt under section 11.

4. What has been stated in respect of educational institutions will equally apply to hospitals and other institutions referred to in section 10(224). In the case of hospitals and similar institutions, if the surplus is used for philanthropic purposes, the income of the

institution will be eligible for exemption under section 10(224). It is not necessary that the surplus should be used for medical purposes only."

(emphasis supplied)

18. A perusal of the Audit Reports of the appellant trust for the relevant AYs would indicate that surplus that has been generated has been deposited back into the account of the trust and has not been utilised for non-educational purposes. Hence, it cannot be stated that the surplus generated by the appellant trust has been utilised for non- educational purposes.

19. Thus, for the reasons recorded above and on the material produced for the relevant Assessment Year, we are of the considered view that the activity of the appellant is 'education' under Section 2(15) of the Act. Accordingly, appellant is entitled for exemption under Section 11 of the Act and thus, Substantial Question of Law No.(i) and (iii) are answered in favour of the appellant-assessee and against the revenue. In light of the fact that the Question of Law No.(i) and (iii) are answered in favour of the assessee, Question of - 21 - ITA No.100009 of 2017 Law No.(ii) is rendered academic and is hence, left unanswered.

20. In the result, the appeal is allowed. The Order of Tribunal dated 13.10.2016 in ITA Nos.1422 and 1423 (Bang) 2016 is hereby set aside with the aforesaid directions. Sd/- (S G PANDIT) JUDGE Sd/- (GEETHA K.B.) JUDGE JTR/KMS