TAX SPHERE

Bombay HC- Consistent surplus does not affect 'Charitable Purpose'

The Bombay High Court, recently in the case **Breach Candy Hospital Trust[1] v. CCIT: WP no. 2462 of 2010 (order dated 12.10.2026)**, has delivered an important ruling on the existence of recurring surplus in books of charitable hospital and its impact on the charitable status / exemption of the hospital.

Section 10(23C)(via) of the Income Tax Act, 1961 ('the Act'), exempts the income of any hospital or medical institution existing solely for philanthropic purposes and not for purposes of profit. While dealing with writ petition(s) filed against denial of renewal of registration u/s 10(23C)(via) of the Act, the Hon'ble Court observed that a charitable hospital does not forfeit its philanthropic character merely because it charges patients, earns recurring surpluses, undertakes expansion of facilities, or invests in advanced medical infrastructure and technology.

The Bombay High Court directed renewal of registration u/s 10(23C)(via) for a period of five years to the hospital and rendered the following prominent principles for charitable organizations:

- The determination of whether a hospital exists “solely for philanthropic purposes and not for purposes of profit” must be based on the statutory framework and the institution’s actual objects and activities. Mere generation of surplus cannot, by itself, lead to the conclusion that the institution exists for profit.[2]

- The existence of recurring surpluses is not inconsistent with a philanthropic purpose. What is relevant is the application and destination of income and not merely the fact that surplus arises in the course of carrying on hospital activities.

- The Court also observed, while analysing surplus to examine whether a hospital exists for philanthropic purposes, the authorities cannot confine themselves to revenue expenditure alone; capital expenditure incurred on acquisition of medical equipment, infrastructure development, modernization, and expansion of hospital facilities must also be considered, as such expenditure may legitimately explain the generation and utilization of surplus.

- Emphasis was laid by the Court on the fact that modern hospitals are required to continuously upgrade medical equipment, replace obsolete technology, expand infrastructure, and improve healthcare facilities to keep pace with developments in medical science. The incidental generation of surplus to facilitate such growth and modernization cannot be equated with a profit motive.

- As per the Charter Document (Memorandum of Association), income and property of the institution could be utilized only for charitable objects and does not permit distribution to its members- in the absence of the

Revenue establishing any diversion of funds, distribution of profits, private enrichment of members, or utilization of surplus for non-charitable purposes, the recurring surpluses generated could not be construed as evidence that the institution existed for profit.

- The Court clarified that payment of salaries, remuneration, and professional fees to doctors, consultants, and medical professionals constitutes a necessary incident of operating a modern healthcare institution and cannot be regarded as profit distribution.

Key takeaways

The following principles laid down by the Court would be useful for various charitable institutions struggling with tax authorities for charitable registration and exemption:

- Mere generation of surplus does not imply a profit motive- the relevant tests are application of towards philanthropic and objects, projected applicable for modernisation and capital expenditures, expansion etc.

- Premium services, sophisticated infrastructure, and substantial receipts do not negate charitable status where the dominant object remains medical relief.

- Absence of profit distribution, diversion of funds, or private enrichment, support the charitable character.

- A charitable institution is not required to operate on a break-even basis- financial sustainability and reasonable accumulation for future growth remain consistent with a philanthropic purpose.

- Although the ruling concerns section 10(23C)(via), a stricter provision, its principles would also support cases involving registration under section 12AB, particularly given the widespread litigation over denial of renewal under that provision.

- The principles would equally apply for corresponding provisions of Income tax Act, 2025.

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