

Section 2(15) of the Income Tax Act of 1961 - Who is not affected?

Let us look at section 2(15) of the Income Tax Act 1950 now, 1961. This is most essential. This is absolute key in terms of definition of charitable purpose and why do I say that. Whether you are in Maharashtra, whether you are in Gujarat, whether you are in Karnataka, whether you are anywhere in the Republic of India this is standard.

Income tax act is a central piece of legislation whichever state you are this is common I repeat whether you are a trust, society or a company this will be standard for you this will not change. So let us understand what charitable purpose is. Income tax central piece of legislation says and it is defined under Section 2(15) of the income-tax act 1961 as of the moment charitable purpose.

Includes relief to the poor it just talks still about relief of the poor, it's a very narrow firm, so all of you would think that we are doing income generation I mean livelihoods and things like that you are little in grey area they are still in relief mode. So be very careful when you're dealing with livelihoods and other such things education now this is very interesting just the fact that you are imparting education is charitable purpose nowhere does the access free education, nowhere does the excess subsidized education, education as an activity is charitable purpose medical relief is same thing.

Nowhere does it say free medical relief, subsidize medical relief, medical relief per se is charitable purpose. Period. Then this was inserted a few years ago under amendment of the Income Tax Act preservation of the environment including watersheds forests and wildlife, preservation of monuments places or objects of artistic or historic interest and the advancement of any other object of general public utility this is the broad omnibus clause.

Now until 1st April 1984 there used to be a qualifying line not involving the carrying on of any activity of profit. That line was deleted way back in 1st April in 1984. Which means if there is a activity of profit back per se is not a problem now this was the position until the year 2008. After 2008 the Income Tax department started bringing about further amendments but affecting only organizations that fall under six not all falling under 123456. And what is that amendment. The amendment came first under and the Finance Act 2008 continued into Finance Act 2010 and the last amendment was in 2011 it once went off any other object of general public utility bill not be considered as charitable purpose if it involves carrying on of any activity in the nature of trade, commerce or business any activity of rendering any service in relation to any trade commerce or business for any fee or cess or other consideration aggregate value of receipts from such activity should not exceed 25 lacs of rupees in any financial year.

Until 2010 this was ten lakhs in the finance act 2011 it was enhanced to 25 Lakhs. What does this mean? that essentially 6 limbs to charitable purpose the relief of poverty education healthcare environment preservation of monuments and any other objective general public utility if you are in education this does not affect you. If you are in medical relief this does not affect you who is affected organizations that fit in that last category any other objective of general public utility classically let us take of an organization such as my own the centre for advancement of the philanthropy we

are not into relief of poverty, we are not into education in the sense that the government understands or medical .we provide services to the voluntary sector. We provided advisory services we provide them training etc. now if in any given financial year which begins 1st April and 31st March if there is income that I'm generating trophies except for a and that crosses 25 lakhs of rupees in that particular year .

I lose my tax exemption I am treated as an organization which is not for charitable purpose I become what is called in income tax act an AOP a simple association of persons to whom a maximum marginal rate of tax applies .period .this is what happens so if I have any business activity in any given year as an organization under any other objective general public utility I have to be careful that my income from business Trade or commerce now obviously I wouldn't be in trade or commerce but any business income from an income tax point of view should not exceed 25 lacs of rupees, if that happens let us say in any given year instead of 25 relax let us say my organization makes 26 lakhs of rupees but in between also receive a lot of donations from others that say about 50 lakhs of rupees have also received as donation which is tax free anyway I am NOT taxed that 1 lakh extra my total income which includes donations will get taxed .

Total income of my organisation is going to be liable. so that is the tragedy of this amendment.so if you are I repeat in education that is fine so let us say you are in education institute and first of all you have to realize what constitutes business Income. Classically a lot of organizations in this room at education now when you're promoting education you need certain tools for education so there are book's that maybe audio-visual material but you may be producing on your own no one forces you to give it free so if you're selling books which are educational in nature that's not your business income in this part of your work if you're creating audio-visual material as part of an education that is not business income because these are tools to promote education and that would never be. Let us say on organization working for the mentally challenged.

You are teaching certain skills to the mentally challenge got teaching them how to make candles teaching them how to make certain arts and crafts in the process of teaching them they make these products and you end up what we may call selling them that is not your business income because what is your primary objective vocational training skills to the mentally challenged our the physically handicapped and in the process of training them incidentally or as a by-product products are coming out that is not your business income that is your way of telling the people outside that these may be these are not disabled people.

They are differently abled if that's what it is that is the message that even they may be mentally challenged or they may be physically challenged or they may have various forms of impairment but they are differently abled and through our training these are our products this were not fit into business Income so that is something with regard to Business Income so who is not affected the amendment does not target all activities falling under the advancement of any other objective general public utility only those which are commercial are supporting commerce are affected put does research livelihoods child labour environment women's rights except are not covered as these are not in the nature of Commerce trade or industry.