

Additional Commissioner of Income-Tax, Gujarat, Ahmedabad v. Surat Art Silk Cloth Manufacturers Association, Surat

Tax Reference Case No. 1A of 1973 / Tax Reference Case Nos. 10–14 of 1975

[1980] 2 SCR 77 | 1979-11-19

Under the historical fourth limb of section 2(15), does an activity producing profit necessarily defeat a general-public-utility charity's section 11 exemption, or does the true predominant purpose of the relevant activity control? The direct-reference jurisdiction and distinction between main objects and incidental powers also arise.

2(15) (original fourth-head words: not involving the carrying on of any activity for profit) | 11(1)(a), 11(2), 11(3) and 11(4) (historical exemption, application/accumulation and business held on trust) | 256 and 257 (historical reference route; direct Supreme Court reference for conflict among High Courts) | 12A and 13, including 13(1)(bb) (discussed safeguards and subsequent statutory context; not a holding applying the 1977 amendment to these earlier AYs)

5-judge bench; 4:1 outcome with a separate concurrence | P.N. Bhagwati, J. | N.L. Untwalia, J. | V.D. Tulzapurkar, J. | R.S. Pathak, J. | A.P. Sen, J.

Assessment years: 1962-63, 1963-64, 1964-65, 1965-66, 1966-67, 1967-68

Historical charity test; separate opinions and later statutory limits

This is a 4:1 decision on six historical section 257 references for AYs 1962–63 to 1967–68. Bhagwati's three-judge reasons, Pathak's separate concurrence and Sen's dissent are distinct; the final-page Revenue-favouring order is not the Court's result. The assessee succeeded on its proved dominant charitable purpose and incidental profits, with other section 11 conditions undisputed; no automatic exemption follows from fees, nondistribution or reinvestment alone. The mixed-question reference route was left open. AUDA's bounded 2022 comparison addresses a changed statutory regime. Comprehensive later treatment, present-law validation and 2025 mapping remain unverified.

01 FACTS OF THE CASE

The association was a company incorporated under the 1913 Companies Act. Its memorandum was materially amended from 14 July 1961 when the Central Government allowed it to omit “Limited” under section 25 of the 1956 Companies Act. Its principal object was promotion of trade and commerce in silk and cotton yarn and cloth. Other clauses authorised business on members’ behalf, obtaining import and export licences, buying and selling their goods, and incidental acts. Income and property had to serve the stated objects; profits could not be distributed to members, and on dissolution the remaining assets had to pass to a company with similar objects (physical pages 10–12/SCR 86–88).

It collected annual subscriptions of Rs.3 per power loom, conceded by the Revenue to be exempt, and commissions calculated by reference to the value of import licences and indigenous-yarn quotas obtained for members. The latter collections were credited to administrative-expense and building-fund accounts. A building constructed in the accounting year relevant to AY 1965–66 generated additional rent. The real dispute concerned the commission-derived income and the association’s charitable character; the decision is not a separate mutuality ruling on subscriptions or a freestanding rental-income rule (physical page 12).

For AY 1962–63 the Income-tax Officer denied exemption. The Appellate Assistant Commissioner initially remanded the assessment, but the Tribunal required a remand report instead. That report favoured the assessee on charitable purpose and the other section 11 conditions; the Tribunal recorded that fulfilment of the latter conditions was undisputed. Similar decisions followed for AYs 1963–64 through 1967–68. Conflict among High Courts on the profit restriction led to six direct references under section 257, ultimately heard by five judges (physical pages 9–10 and 13–14).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

Bhagwati J., speaking for Untwalia and Tulzapurkar JJ. as well, first confined section 257 to the particular legal question on which High Court decisions conflicted. The Revenue could not use these references to introduce a separate objection that members were merely specified individuals rather than a section of the public. The judgment expressly left open how one should route a case containing both a conflict question and a non-conflict question: a single High Court reference or separate references. Alternatively, it rejected the member-benefit argument on the merits. Distinct primary objects must each be charitable where funds may be applied to any of them; an ancillary power does not destroy an essentially charitable dominant purpose. Here the trade-promotion object was primary, the other clauses were instrumental powers, members' benefits were incidental, and the memorandum excluded private gain (physical pages 14–18).

For the then section 2(15), the profit restriction qualified the general-public-utility limb, not the preceding relief-of-poor, education and medical-relief limbs. Bhagwati J.'s grammatical analysis attached the restrictive words to the object of general public utility rather than every means of financing its achievement. Business held under a legal obligation to finance charity was distinguished from profit-making integrated into the pursuit of the purpose itself. Section 11(4), and the later section 13(1)(bb) effective from 1 April 1977, formed part of that reasoning. The latter was discussed as statutory context, not imposed retrospectively on AYs 1962–63 to 1967–68. The majority rejected the contrary construction in Indian Chamber of Commerce and relied on Dharmodayan; it did not abolish the remaining statutory exemption conditions (physical pages 18–28).

The operative inquiry nevertheless examines actual conduct. It is insufficient that a broadly drafted object could hypothetically be achieved without profit-making. One asks whether an activity for profit is in fact integral to advancing the purpose. If the constitution itself expressly prescribes an activity whose predominant motive is profit, the purpose fails even before that activity begins. For an activity actually undertaken, the controlling question is whether its predominant object is to serve the charitable purpose or earn profit. Incidental surplus does not by itself disqualify the charity; no express no-profit/no-loss clause is indispensable. But commercial pricing and a large profit margin can establish that earning profit is the real object. The journal and blood-bank illustrations are warnings against commercial activity disguised as charity, not categorical exemptions for publications or fee-based services (physical pages 29–34).

On this record, obtaining licences and quotas predominantly promoted the relevant trade; profit was an incidental by-product and could only serve the association's objects. The Court rejected an automatic inference of a profit purpose merely because profit arose, disapproving the contrary observations in Loka Shikshana Trust and Indian Chamber of Commerce on this point. It did not overrule every proposition in Loka Shikshana Trust, including unrelated questions about education (physical pages 33–35).

Pathak J. reached the same answer through a separate analysis. He read the restriction with the advancement of the public-utility object, because advancement denotes activity. An activity intended for profit remains such even if no profit materialises, while a realised surplus alone is inconclusive. A profit purpose must be absent or insignificant beside the charitable purpose; a dominant or equally weighted profit purpose fails his test. He separated the definition of purpose from the powers used to fulfil it and from controls over application of income, allowing examination of the true purpose behind the constituting document. The statutory conditions for exemption remained essential (physical pages 35–43).

02 DISCUSSION BY THE HON'BLE COURT

Sen J. dissented. He would preserve the restrictive approach of Loka Shikshana Trust and Indian Chamber of Commerce: an activity for profit in advancing the fourth-head object defeated charitable status, even if profits fed charity. He emphasised Parliament's anti-avoidance purpose and opposed importing the dominant-purpose solution into that limb. His proposed Revenue-favouring answer and costs order at the end of the report are not the Court's operative result (physical pages 43–64).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

By a 4:1 outcome, the Court answered the question in each of the six references in favour of the assessee and against the Revenue. Bhagwati J.'s three-judge opinion held its purpose charitable under the historical section 2(15) and its income exempt under section 11 on the established record; Pathak J. separately answered each reference affirmatively. The Revenue was directed to pay the assessee's costs in two sets: one for Reference Case 1A/1973, the other for Reference Cases 10–14/1975. There was no fresh Supreme Court remand. The section 11 conditions were not waived: their fulfilment had been found and was undisputed. Sen J. would have answered for the Revenue with costs, but that was the dissent (physical pages 13–14, 34–35, 42–43 and 64).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee by 4:1; Pathak J. concurred separately

All six section 257 references answered for the assessee; Revenue pays assessee's costs in two sets, one for 1A/1973 and one for 10–14/1975

Final answer to the referred historical-law question on this record; no fresh remand or unconditional exemption for other years or entities

AYs 1962–63 through 1967–68; genuine dominant charitable purpose and non-dominant profit activity on the facts, with the other section 11 conditions found satisfied. Separate concurrence, dissent and unresolved mixed-question reference route preserved.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Read the case at two levels: identify the genuine primary charitable purpose, then examine how the relevant activity actually advances it. A nondistribution clause and reinvested surplus support the factual inquiry but are not a universal safe harbour. The majority expressly allows an inference of predominant commercial purpose from the manner of operation and scale of profit. Nor should the public-benefit discussion be detached from the narrow section 257 route and its alternative merits analysis.

A bounded check of Ahmedabad Urban Development Authority (19 October 2022) directly reviews Surat, records its later application including FICCI, and distinguishes the amended section 2(15) regime. It explains that the later commercial-activity proviso cannot be displaced merely by a dominant charitable object or reinvestment of receipts. Activity character, statutory connection and applicable yearly receipt limits matter; cost or nominal-margin charges are not automatically commercial, while specialised paid trade services require scrutiny. This is a dated comparison, not present-law certification or comprehensive subsequent treatment (AUDA physical pages 56–60, 71–73, 84–87, 114–116 and 141–144).

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Actual 1979 date, five-judge bench and all six direct references

Source url: [Open cited source](#)

Pdf pages: 1; 9; 10

Paragraphs: SCR 77 heading; 85 G–86 H

Source role: reported metadata and judicial text

2.

Topic: Amended objects, nondistribution restrictions, subscriptions, commissions and rental income

Source url: [Open cited source](#)

Pdf pages: 11; 12

Paragraphs: SCR 87 A–88 H

Source role: judicial text

3.

Topic: AY 1962–63 remand-report history, undisputed section 11 conditions and five later years

Source url: [Open cited source](#)

Pdf pages: 13; 14

Paragraphs: SCR 89 A–90 D

Source role: judicial text

4.

Topic: Section 257 limits and expressly unresolved mixed-question reference route

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16

Paragraphs: SCR 90 E–92 B

Source role: judicial text

5.

Topic: Alternative object/power analysis, incidental member benefit and private-gain exclusion

Source url: [Open cited source](#)

Pdf pages: 16; 17; 18

Paragraphs: SCR 92 C–94 D

Source role: judicial text

6.

Topic: Historical fourth-head restriction and object versus financing distinction

Source url: [Open cited source](#)

Pdf pages: 18; 19; 21; 22; 23; 24; 25

Paragraphs: SCR 94 E–95 D; 97 D–101 A

Source role: judicial text

7.

Topic: Indian Chamber construction rejected; Dharmodayan and separate business held on trust

Source url: [Open cited source](#)

Pdf pages: 25; 26; 27; 28

Paragraphs: SCR 101 B–104 G

Source role: judicial text

8.

Topic: Actual integral activity and express profit-oriented constitutional purpose

Source url: [Open cited source](#)

Pdf pages: 29; 30

Paragraphs: SCR 105 A–106 C

Source role: judicial text

9.

Topic: Predominant activity-profit test and illustrations of small surplus versus commercial profit

Source url: [Open cited source](#)

Pdf pages: 30; 31; 32; 33

Paragraphs: SCR 106 D–109 C

Source role: judicial text

10.

Topic: No automatic profit inference or compulsory no-profit clause; application and result

Source url: [Open cited source](#)

Pdf pages: 33; 34; 35

Paragraphs: SCR 109 D–111 B

Source role: judicial text

11.

Topic: Pathak's distinct concurrence: purpose, activity, dominant/equal profit and statutory conditions

Source url: [Open cited source](#)

Pdf pages: 35; 36; 37; 38; 39; 40; 41; 42; 43

Paragraphs: SCR 111 B–119 B

Source role: judicial text

12.

Topic: Sen's dissent and proposed contrary disposition, not the Court's order

Source url: [Open cited source](#)

Pdf pages: 43; 44; 45; 50; 51; 55; 56; 57; 58; 63; 64

Paragraphs: SCR 119 C–121 H; 126–127; 131–134; 139–140 B

Source role: judicial text

13.

Topic: Bounded later direct treatment and FICCI quotation

Source url: [Open cited source](#)

Pdf pages: 56; 57; 58; 59; 60

Paragraphs: AUDA paragraphs 93–103; opening of 104

Source role: bounded later judicial comparison

14.

Topic: Bounded historical statutory changes and post-2008 interpretation

Source url: [Open cited source](#)

Pdf pages: 71; 72; 73; 84; 85; 86; 87

Paragraphs: AUDA paragraphs 125–130; 150–154; opening of 155

Source role: bounded later judicial comparison

15.

Topic: Bounded trade-body comparison under amended definition

Source url: [Open cited source](#)

Pdf pages: 114; 115; 116

Paragraphs: AUDA paragraphs 200–205

Source role: bounded later judicial comparison

16.

Topic: Bounded changed-law general test and trade-promotion conclusions

Source url: [Open cited source](#)

Pdf pages: 141; 142; 143; 144

Paragraphs: AUDA paragraph 253(A)–(D)

Source role: bounded later judicial comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

P.N. Bhagwati, J. for himself, N.L. Untwalia and V.D. Tulzapurkar JJ.; R.S. Pathak, J. separately concurring; A.P. Sen, J. dissenting

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961: historical sections 2(15), 11 and 257; later section 13(1)(bb) discussed as interpretive context

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, section 4(3)(i) (historical comparison); Companies Act, 1956, section 25 (company recognition and nondistribution structure); Indian Companies Act, 1913 (incorporation background)

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 64 PDF pages; SHA-256

0984cbcd2aa431d7cd395dccc1e0d7b7fd51be7b91dc813037289a839c8fdff. Original bytes preserved.

Unnumbered Bhagwati opinion for Bhagwati, Untwalia and Tulzapurkar JJ. begins physical page 10/SCR 86 E–F and ends page 35/SCR 111 B; Pathak J.'s separate concurrence begins page 35/SCR 111 B and ends page 43/SCR 119 B; Sen J.'s dissent begins page 43/SCR 119 C and ends page 64/SCR 140 B. Pages 1–9 before the jurisdiction heading are editorial headnotes; reference metadata continues from page 9 to page 10. No neighbouring judgment.

Open cited source rendition

Actual decision date is 19 November 1979, although the asset and report are 1980. The report is [1980] 2 SCR 77–140.; The headnote's "Dismissing the appeal" misdescribes the proceeding. The judicial body answers six direct section 257 references; do not convert this into an appeal dismissal.; Three distinct opinions must remain separated: Bhagwati for three judges, Pathak separately concurring, Sen dissenting. Page 35 already bears Pathak's running header while its opening contains the majority's result; page 43 bears Sen's header while its opening still contains Pathak's conclusion. The last-page Revenue-favouring order is dissent only.; The Supreme Court ordered no fresh assessment remand. Earlier remand and remand-report steps are procedural history; fulfilment of the other section 11 conditions was recorded as undisputed.; The majority's distinction between funding business and an activity integral to the charitable purpose must be read together with its predominant-profit test, actual-conduct inquiry and commercial-pricing illustrations.; The section 257 mixed-question routing issue was expressly left open. The alternative member-benefit analysis does not erase that jurisdictional limit.; References to section 13(1)(bb), effective 1 April 1977, are contextual to the interpretation; the assessment years decided end in 1967–68.; AUDA paragraph 153(b), physical page 86, contains the apparent textual slip "should be exceed 20%"; this note relies on the coherent no-exceed formulation in paragraph 153(c) and conclusion 253(A.2), not that slip. The later comparison does not equate every fee or surplus with commercial activity.

Reference 1A/1973 concerns AY 1962–63; references 10–14/1975 collectively concern AYs 1963–64 through 1967–68. These are six references involving the same assessee and question. The 1980 report/asset year is not the decision year or an assessment year.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 and no present-law certification. Identify the applicable statutory version and procedural route separately.

LATER TREATMENT

Source checked 2026-10-04. not_verified. Bounded subsequent primary check only: AUDA, 19 October 2022, paragraphs 95–103, 125–130, 150–154, 200–205 and 253(A)–(D), with the actual page boundaries listed in sources. AUDA paragraph 98 quotes FICCI; the FICCI original is not separately reread or claimed as a source in this batch. No complete citation history, post-2022 check, present-law validation or 2025 mapping.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 64](#)

SHA-256: 0984cbcd2aa431d7cd395dcd1e0d7b7fd51be7b91dc813037289a839c8fdff

[later judgment bounded check - PDF pages: 149](#)

SHA-256: 337506bb14011d607bd09bff7abb821aa77aa618be94632ed8edc1716667f33f

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