

Commissioner of Income Tax, Bombay v. Bar Council of Maharashtra

Civil Appeal No. 2115 of 1980 / Civil Appeal No. 2116 of 1980 / Civil Appeal No. 2117 of 1980 / Civil Appeal Nos. 2115 to 2117 of 1980

[1981] 3 SCR 542 | 1981-04-22

Whether the assessee Bar Council's dominant statutory purpose was advancement of an object of general public utility within section 2(15), so that its income from securities qualified under section 11 for the three assessment years.

2(15) | 11

2-judge bench; single opinion | V.D. Tulzapurkar, J. | E.S. Venkataramiah, J.

Assessment years: 1962-63, 1963-64, 1964-65

IMPORTANT: HISTORICAL CHARITY TEST; REGULATORY STATUS DOES NOT GIVE A PERMANENT BLANKET EXEMPTION

This judgment decides Maharashtra's AYs 1962-63 to 1964-65 under the then section 2(15), on the admitted absence of activity for profit and the statutory functions considered. Section 11 remains conditional. The Revenue's section 10(23A) mutual-exclusivity objection was not reopened because it had acquiesced below; this is not an unrestricted holding that every exemption provision can always be combined. Later legislation changed section 2(15). The bounded AUDA check confirms specific scrutiny of regulatory receipts, including significantly above-cost charges and applicable quantitative limits. Comprehensive later treatment, current-law applicability and Income-tax Act 2025 mapping remain NOT VERIFIED.

01 FACTS OF THE CASE

The Revenue brought Civil Appeals 2115-2117/1980 from the Bombay High Court's judgment dated 8 August 1978 in Income Tax Reference 142/1969. The assessee was the Bar Council of Maharashtra. Bar Council of India and Bar Council of Gujarat are also printed in the heading, while the appearances identify two interveners. The judicial body does not treat those bodies as separate assessed recipients or give them separate tax outcomes (physical pages 1-2/SCR 542-543).

Maharashtra earned interest on securities and other income by way of enrolment fees. For AY 1962-63, those amounts were respectively Rs 3,779 and Rs 28,035; for AY 1963-64, Rs 8,629 and Rs 3,04,103; and for AY 1964-65, Rs 9,356 and Rs 96,322. These are the Council's receipts, not payments to individual advocates or awards of costs. The Income-tax Officer taxed both sources. The Appellate Assistant Commissioner rejected the section 10(23A) claim because government approval was then absent and rejected the securities-interest claim under section 11 because charitable holding was not established; he regarded the Council as primarily benefiting the profession (physical page 3/SCR 544 A-E).

By the Tribunal stage, a Central Government notification dated 5 August 1966 had approved the Council for section 10(23A), effective 28 December 1961. The Tribunal allowed the enrolment-fee exemption. For the securities income it considered the purpose for which the securities were held decisive, found the record insufficient and remanded to the Appellate Assistant Commissioner. The assessee obtained a section 256(1) reference on whether it was a body advancing general public utility for section 11. The High Court answered affirmatively, relying on its obligatory statutory functions (physical pages 3-4/SCR 544 F-545 D).

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

02 DISCUSSION BY THE HON'BLE COURT

Tulzapurkar J. delivered the single opinion. The Revenue first argued that section 10(23A) expressly excluded securities interest and certain other receipts from its exemption, so section 11 could not exempt them. The Court declined to permit that argument. The Tribunal had rejected mutual exclusivity and allowed consideration under section 11 subject to its requirements. The Revenue had neither challenged that remand through a reference nor raised the argument when the assessee's reference was pursued or heard. It had therefore acquiesced. The Court also observed that allied provisions such as section 10(23C) did not suggest a general legislative exclusion of section 11, but its refusal to entertain this particular objection rested on the procedural history (physical pages 4-5/SCR 545 D-546 G).

The Court then addressed the merits of charitable purpose. It stated section 11's conditions and quoted the then section 2(15), including the historical restrictive words concerning activity for profit. Drawing on Andhra Chamber of Commerce and Surat Art Silk, it explained that an ancillary non-charitable object would not defeat an institution whose primary or dominant purpose was charitable. Those authorities' trading-body facts are explanatory precedents, not the Bar Council's activities. The Council admittedly was not undertaking any activity for profit, so deciding the application of the restrictive words to profit-making activity did not arise (physical pages 5-7/SCR 546 H-548 H).

The Court read the Advocates Act's preamble and section 6 as a whole. Section 6(1) prescribed obligatory functions, including admitting qualified advocates and maintaining the roll, professional discipline, protecting advocates' rights and interests, law reform, legal education through talks and publications, and legal aid to the poor. It was wrong to isolate protection of advocates' interests as the Council's dominant purpose. Admission and discipline protected the litigating public; independence and professional standards served society; the combined functions secured competent legal services, legal literacy, reform and aid. Benefit to lawyer-members was incidental (physical pages 8-10/SCR 549-551 D).

Section 6(2) permitted welfare funds for indigent, disabled or other advocates, but this was optional and the assessee had not constituted such a fund. The Court reserved the possibility that, if a fund were later created, its effect on the Council's dominant purpose might require examination. It did not decide that future question. Having considered the obligatory functions, it held that this Council's primary purpose advanced general public utility and its securities income was exempt under section 11 (physical pages 9-10/SCR 550 A-551 G).

The Court cautioned against mechanically applying English charity decisions because the Indian statutory definition extended to other objects of general public utility. It briefly distinguished the professional institutions considered in the Royal College of Surgeons and General Medical Council cases from favourable English decisions concerning an agricultural society and civil engineers. Those institutions' outcomes were comparative discussion, not additional Indian tax proceedings disposed of here (physical pages 7 and 11/SCR 548 B-F and 552 A-C).

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

03 JUDICIAL DECISION

The Supreme Court affirmed the High Court's affirmative answer in favour of the assessee and dismissed all three Revenue appeals, with no order as to costs. The Court held that the assessee Council's dominant statutory purpose was general public utility and that its securities income qualified under section 11 in the circumstances before it. The earlier Tribunal remand is procedural history; the Supreme Court's operative order does not direct a fresh remand (physical pages 10-11/SCR 551 E-G and 552 C-D).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Bar Council of Maharashtra, the assessee

Three Revenue appeals dismissed; High Court's affirmative answer upheld

Final reasoned determination of general-public-utility purpose on the record

The Council's securities interest and historical section 11 eligibility; no perpetual entity-wide exemption or separate tax award to interveners.

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

05 AKHB REVIEW POINT

Separate the institution's dominant statutory purpose from the treatment of each receipt and compliance with section 11. The judgment's persuasive force comes from its analysis of the Council's complete public-facing statutory functions and the admitted absence of profit activity. The enrolment-fee exemption under section 10(23A), the securities-interest claim under section 11 and the procedural bar to reopening an abandoned objection are distinct steps. An optional welfare fund that might later change the dominant purpose was expressly left for another case.

The bounded later check is important. AUDA, decided on 19 October 2022, discusses Bar Council at paragraph 99 but applies the amended section 2(15) framework. Paragraphs 196-197 and 253 C state that statutory professional regulation is not by itself commercial, while warning that markedly above-cost fees or services can produce commercial receipts subject to the applicable limits. Its 3 November 2022 clarification preserves finality for years already decided while requiring future years to be assessed on their own facts under the declared law. The 2011 government-hosted compilation separately records the 1984 change and the 2008 substitution effective 1 April 2009. None of these bounded readings establishes every intervening amendment or current exemption condition. AKHB REVIEW POINT is editorial analysis.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Costs: No order as to costs

Proceeding outcomes

1.

Case number: Civil Appeal No. 2115 of 1980

Parties: Commissioner of Income Tax, Bombay v. Bar Council of Maharashtra

Appellant role: Revenue

Assessment years in common judgment: 1962-63; 1963-64; 1964-65

Docket year mapping: Not separately specified by the source; no individual appeal/year pairing inferred

Underlying proceeding: Bombay High Court Income Tax Reference No. 142 of 1969, judgment dated 8 August 1978

Outcome: Dismissed; affirmative High Court answer favouring the assessee affirmed

Costs: No order as to costs

Pinpoint: Physical page 2/SCR 543 C-D and page 11/SCR 552 C-D

2.

Case number: Civil Appeal No. 2116 of 1980

Parties: Commissioner of Income Tax, Bombay v. Bar Council of Maharashtra

Appellant role: Revenue

Assessment years in common judgment: 1962-63; 1963-64; 1964-65

Docket year mapping: Not separately specified by the source; no individual appeal/year pairing inferred

Underlying proceeding: Bombay High Court Income Tax Reference No. 142 of 1969, judgment dated 8 August 1978

Outcome: Dismissed; affirmative High Court answer favouring the assessee affirmed

Costs: No order as to costs

Pinpoint: Physical page 2/SCR 543 C-D and page 11/SCR 552 C-D

3.

Case number: Civil Appeal No. 2117 of 1980

Parties: Commissioner of Income Tax, Bombay v. Bar Council of Maharashtra

Appellant role: Revenue

Assessment years in common judgment: 1962-63; 1963-64; 1964-65

Docket year mapping: Not separately specified by the source; no individual appeal/year pairing inferred

Underlying proceeding: Bombay High Court Income Tax Reference No. 142 of 1969, judgment dated 8 August 1978

Outcome: Dismissed; affirmative High Court answer favouring the assessee affirmed

Costs: No order as to costs

Pinpoint: Physical page 2/SCR 543 C-D and page 11/SCR 552 C-D

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Source url: [Open cited source](#)

Pdf pages: 2; 3; 4

Paragraphs: Full appeal range, assessee, table, exemptions and reference: SCR 543 C-545 D

Source role: Judicial text unless expressly described as editorial headnote or appellate recital

2.

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6; 7

Paragraphs: Acquiescence and historical charity principles: SCR 545 D-548 H

Source role: Judicial text unless expressly described as editorial headnote or appellate recital

3.

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11

Paragraphs: Statutory functions, welfare-fund reservation, holding and disposition: SCR 549-552 D

Source role: Judicial text unless expressly described as editorial headnote or appellate recital

SEPARATE JUDICIAL OPINIONS AND READING BOUNDARIES

1.

Author: V.D. Tulzapurkar, J.

Type: Single judgment of the Court

Read bounds: Physical 2 F-11 D/SCR 543-552

Holding: Dominant public-utility purpose; historical securities-interest exemption; Revenue's first objection not reopened owing to acquiescence; all three appeals dismissed without costs.

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

10(23A), enrolment-fee exemption and unpursued mutual-exclusivity argument; 10(23C), supporting observation; 256(1), reference procedure; Advocates Act, 1961, preamble and section 6(1)-(2) statutory functions

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

V.D. Tulzapurkar, J.

PARTY ROLES IN THESE PROCEEDINGS

Appellant: Commissioner of Income Tax, Bombay

Respondent assessee: Bar Council of Maharashtra

Additional heading names: Bar Council of India; Bar Council of Gujarat

Appearance reconciliation: The heading also names India and Gujarat, and the appearances list two interveners. The judicial body identifies Maharashtra alone as the assessee; no separate assessment or merits disposal for either intervener is invented.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Source: AUDA, Supreme Court, 19 October 2022

Url: [Open cited source](#)

Pinpoints: Paragraph 99 (physical 58-59); paragraphs 129-130 (73); 196-197 (112-113); 253 A-C (141-144)

Result: Direct historical discussion of Bar Council; amended general-public-utility regime retains public regulatory analysis with important above-cost fee and quantitative-limit qualifications. No blanket perpetual exemption.

Status: bounded primary later treatment

2.

Source: AUDA clarification, 3 November 2022

Url: [Open cited source](#)

Pinpoints: Paragraphs 4-6, physical 3/SCR 583

Result: Finality for decided years; future unadjudicated years governed by their own facts and declared law.

Status: bounded primary later clarification

3.

Source: 2011 government-hosted Income-tax Act compilation

Url: [Open cited source](#)

Pinpoints: Physical 49/printed 1.8, section 2(15), notes 53 and 58-58a

Result: Historical version changes and threshold development recorded; no current-law certification.

Status: bounded only

RETAINED PDF SOURCE CHECKS AND READING LIMITS

1.

Kind: bounded auxiliary primary or official source

Title: Income Tax Act 2011, Directorate of Income Tax (PR, PP & OL), government-hosted Taxmann compilation

Url: [Open cited source](#)

Source file: later_checks/DOR_IT_Act_English_2011_compilation.pdf

Sha256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

File bytes: 8394755

Pdf pages: 1251

Physical text pages read: 42; 49; 86; 87; 299; 300; 301

Physical image pages read: 1; 42; 49; 87; 300

Full document read: False

Read bounds: Cover image; physical 42/printed 1.1, 49/1.8, 87/1.46 and 300/1.259 supply the relied-on commencement and historical amendment checks. Text 86,299,301 read for context. No complete statutory or legislative-chain review.

Provenance: Retained government-hosted compilation copied unchanged. Hash 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b, 8,394,755 bytes and 1,251 pages match the retained provenance. This is a 2011 compilation, not a 2026 current-law text or independently authenticated Gazette.

Current law certification: False

2.

Kind: bounded auxiliary primary or official source

Title: ACIT (Exemptions) v. Ahmedabad Urban Development Authority, judgment dated 19 October 2022

Url: [Open cited source](#)

Source file: later_checks/AUDA_2022_official.pdf

Sha256: 337506bb14011d607bd09bff7abb821aa77aa618be94632ed8edc1716667f33f

File bytes: 1022428

Pdf pages: 149

Physical text pages read: 1; 58; 59; 73; 111; 112; 113; 141; 142; 143; 144; 145; 149

Physical image pages read: 1; 58; 59; 73; 112; 113; 141; 142; 143; 144; 149

Full document read: False

Read bounds: Bounded reading of identity/date; complete paragraphs 98-101 and the opening of paragraph 102; complete paragraphs 129-130 and the opening of paragraph 131; the closing portion of paragraph 194 and complete paragraphs 195-197; and paragraph 253 A-C. Neighbouring text appearing on the selected pages was also read. Direct reliance is on Bar Council discussion in paragraph 99, regulatory qualifications in paragraphs 196-197 and 253 C, and statutory history in paragraphs 129-130. The uncompleted portions of paragraphs 102, 131 and 194 are not relied on. No complete rereview of the 149-page judgment or all companion appeals.

Provenance: Unchanged retained official-format PDF reused from the existing judgment source. Hash/bytes/page count exactly match the existing official-source provenance. No fresh web fetch or cryptographic signature validation claimed.

Current law certification: False

3.

Kind: bounded auxiliary primary or official source

Title: ACIT (Exemptions) v. Ahmedabad Urban Development Authority, clarification dated 3 November 2022

Url: [Open cited source](#)

Source file: later_checks/AUDA_2022_clarification_reported.pdf

Sha256: c58bf48c3d74594f0e6f84f69f64724d277a869352bbc2e306a829ee9ab77ed1

File bytes: 173312

Pdf pages: 3

Physical text pages read: 1; 2; 3

Physical image pages read: 1; 2; 3

Full document read: True

Read bounds: Complete 3-page reported rendition: editorial headnote on physical 1; judicial order paragraphs 1-6 on physical 2-3/SCR 582-583. Reliance limited to finality of decided years and application to the facts of future years.

Provenance: Retained eSCR public-mirror PDF copied unchanged; exact 173,312 bytes, SHA-256 c58bf48c3d74594f0e6f84f69f64724d277a869352bbc2e306a829ee9ab77ed1 and three pages reverified. Not an independently fetched signed original.

Current law certification: False

Full bounded judicial text read: True

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 11 PDF pages; SHA-256 51b2ffd70650e9dd22d8c9877fa65543098a567b2e75836e054481e18425cf0b. Original bytes preserved.

Open cited source rendition

full primary text read: True; all primary page images reviewed: True; material primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; all listed proceedings accounted for: True; all authored opinions separately accounted for: True; material later treatment limits prominent: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

SCR report citation, printed date, bench and complete docket verified from the source images. Catalogue INSC label is preserved as metadata only and is not independently authenticated here as a neutral citation.

The judgment concerns Maharashtra's three assessment years. The source does not assign each civil-appeal number to a particular year.

STATUTORY SCOPE

No Income-tax Act 1961 to Income-tax Act 2025 equivalence, commencement, transition, savings or automatic precedent carryover certified. Bounded checks are recorded separately.

LATER TREATMENT

Source checked 2026-10-05. AUDA and its clarification were checked within expressly stated bounds. Comprehensive later treatment, current law and Income-tax Act 2025 mapping remain not verified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 11

SHA-256: 51b2ffd70650e9dd22d8c9877fa65543098a567b2e75836e054481e18425cf0b

bounded auxiliary primary or official source - PDF pages: 1251

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

bounded auxiliary primary or official source - PDF pages: 149

SHA-256: 337506bb14011d607bd09bff7abb821aa77aa618be94632ed8edc1716667f33f

[bounded auxiliary primary or official source - PDF pages: 3](#)

SHA-256: c58bf48c3d74594f0e6f84f69f64724d277a869352bbc2e306a829ee9ab77ed1

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