

## **ITAT Hyderabad denies exemption to a charitable trust charging patients at market rates**

**Fernandez Foundation, Hyderabad (ITA No.1884 & 1885/Hyd/2019 and ITA No.299/Hyd/2020)**

Facts:

1. The assessee was a private limited company and converted the said company into a Section 8 Company (Charitable company) under the Companies Act, 2013 and changed the name to “Fernandez Hospital”.
2. The CIT(Exemption) discovered that the assessee is involved in activities which are in the nature of trade and provides services at market rates.
3. Although the assessee had said in its objects that it provided medical assistance through maternity homes, they billed patients at market rates for their treatment.
4. The CIT(E) rejected the registration application under Sections 12AA(1)(b)(ii), 80G(5)(vi), and 10(23C)(vi) of the Income Tax Act
5. The counsel of the assessee noted that it is impossible to dig into the Company’s past when it wasn’t engaging in charity endeavours. Therefore, whatever information that the department may have looked into regarding the assessee’s business prior to the conversion of the company is irrelevant.

**ITAT Hyderabad held as follows:**

1. The CIT(E) was accurate in determining that the assessee is billing patients at commercial rates, whether indoors or outside, and that the assessee has failed to show that the charges it imposed were premised on a justifiable markup on the cost.

2. The assessee had failed to bring on record any comparative chart of diagnostic charges / procedure charges / test charges prior to the conversion of the assessee into section 8 company and thereafter to show that there was a major reduction in fee / charges charged by the assessee for the above said purposes.

3. There was no error after taking the facts into account and CIT(E)'s decision is upheld.