

# Is Prevention of Poverty a Charitable Purpose - Sas Ansari

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## Is Prevention of Poverty a Charitable Purpose

*Credit Counselling Services of Atlantic Canada Inc v Canada (National Revenue)*, [2016 FCA 193](#)

**NOTE: Limitations on the political activities of charities, imposed by the Income Tax Act are under [Charter challenge led by McCarthy Tetrault LLP on behalf of Canada Without Poverty](#)**

**NOTE: See my commentary [HERE](#).**

The Appellant lost its charitable status when the Minister of National Revenue annulled its registration. The Minister based the decision on a finding that the "purposes and activities of the Appellant were not exclusively charitable as the prevention of poverty was not a recognized charitable purpose" (para 3).

The only issue was whether actions aimed at the "prevention of poverty" are charitable activities for the purpose of the *Income Tax Act*.

### FACTS

The Appellant provided services aimed at preventing persons from falling into poverty, including professional financial and debt counseling to the community, educational programs on money management, researching credit-related concerns, and informing the public about consumer credit issues.

Upon incorporation in 1993 it was told that it qualified as a registered charity for purposes of the ITA. Twelve years later, the Minister confirmed the decision to annul the taxpayer's registration as a charity on the basis that its activities and purposes were not exclusively charitable. This was because the services provided were not limited to individuals who were poor, and thus not related to "relief of poverty" but "prevention of poverty"

### ANALYSIS

The standard of review was determined to be correctness, as the issue is the correct interpretation of the Act and determining what qualified as a charitable activity for purposes of the ITA. Subsection 149.1(1) defines a "Charitable Organization" as any organizations "all the resources of which are devoted to charitable activities carried on by the organization itself".

The cases dealing with charitable purposes are relevant in determining what qualifies as charitable activities. The well-recognized categories of charitable purposes are - A.Y.S.A.

*Amateur Youth Soccer Association v. Canada Revenue Agency*, 2007 SCC 42, at paragraph 26:

- the relief of poverty;
- the advancement of education;
- the advancement of religion;
- certain other purposes beneficial to the community, not falling under the preceding heads

The FCA noted that no cases were cited where the relief of poverty included the prevention of poverty. To satisfy this requirement the person receiving assistance must be a person who is in poverty. The Court of Appeal recognized that "poverty" is a relative term, such that persons in serious financial trouble may be in poverty even if not destitute (para 16) - *Vancouver Society of Immigrant and Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10.

There was no indication that the appellant screened the applicants so as to offer services only to those it considered "poor", but acted to prevent any person from potentially falling into poverty.

The court referred to the UK, where legislation included the "prevention of poverty" in addition to its relief as a charitable purpose. The FCA felt that what the Appellant was asking it to do was properly the realm of Parliament. The FCA held that "prevention of poverty" was not a charitable purpose encompassed by "relief of poverty".

The criteria of the catch-all fourth category of charitable activities - purposes beneficial to the community - was set out in *Vancouver Society of Immigrant and Visible Minority Women v. Minister of National Revenue*, [1999] 1 S.C.R. 10 as:

- having to be beneficial to the community in a way the law considered charitable by coming within the spirit and intendment of the preamble to the *Statute of Elizabeth*;
- More than a mere "public benefit" or the promotion of the "public interest" is required;

The Supreme Court of Canada recognized that the requirement that the other activity be beneficial in the way the law sees as charitable is circular. It also noted that there was no common thread to the items in the preamble of the *Charitable Uses Act, 1601*. What is required of the Court is to look at those items already classified as charitable purposes and the through expansion and analogy as whether the case may be considered to be in line with those, considering accepted anomalies, and making sure that the activities do not "clearly" fall outside activities that are charitable. Additionally, the activities must be for the benefit of the community of a class of the community and not for private advantage.

The FCA said that although persons assisted benefited, it was "far from clear why "this is not a private advantage enjoyed by these individuals or how this would be beneficial to the community in a way that the law regards as charitable".

**[NOTE - the preamble reads as follows: "The relief of the aged, impotent and poor**

*people; the maintenance of sick and maimed soldiers and mariners, schools of learning, free schools and scholars in universities; the repair of bridges, ports, havens, causeways, churches, seabanks and highways; the education and preferment of orphans; the relief, stock or maintenance of houses of correction; the marriages of poor maids, the supportation, aid and help of young tradesmen, handicraftsmen and persons decayed; the relief or redemption of prisoners or captives; and the aid or ease of any poor inhabitants concerning payment of fifteens, setting out of soldiers and other taxes."]*

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