



HIGH COURT OF AUSTRALIA

1 December 2010

AID/WATCH INCORPORATED v COMMISSIONER OF TAXATION

[2010] HCA 42

Today the High Court held that an organisation involved in promoting and campaigning for effective foreign aid policies through the generation of public debate was a charitable institution for the purpose of tax exemptions and concessions.

Aid/Watch Incorporated is an organisation concerned with promoting the effectiveness of Australian and multinational aid provided in foreign countries by means which include investment programs, projects and policies. In October 2006, the Commissioner of Taxation revoked Aid/Watch's endorsements as a charitable institution for the purposes of income tax, fringe benefits tax and GST.

In 2008, the Administrative Appeals Tribunal set aside the Commissioner's decision and determined that Aid/Watch was a charitable institution notwithstanding that it sought to influence government policy through its activities. The Full Court of the Federal Court allowed an appeal by the Commissioner, holding that because Aid/Watch's activities necessarily involved a criticism of government activities and policies, its main purpose was a political purpose and it could not therefore be categorised as a charitable institution.

The High Court by majority allowed Aid/Watch's appeal from the Full Court's decision, and restored the decision of the AAT. The Court referred to authorities establishing that free communication on matters of government and politics is an indispensable incident of the system of representative and responsible government established by the Constitution. The Court stated that the generation by lawful means of public debate concerning the efficiency of foreign aid directed to the relief of poverty is itself a purpose beneficial to the community. It held that in Australia there is no broad general rule excluding "political objects" from charitable purposes, and that because Aid/Watch's activities contribute to the public welfare, it was entitled to be regarded as a charitable institution.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*