

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'F' NEW DELHI  
BEFORE SMT SUCHITRA KAMBLE, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
ITA NO. 5365/DEL/2012  
(ASSESSMENT YEAR-2009-10)**

Param Hans Uma Bharti Mission Proprietor swami Umba Bharti Public School, Jhajjar Road Haryana AAATP9225G <b>(APPELLANT)</b>	Vs	ACIT Circle Rewari Haryana  <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. Suresh Anand, CA</b>
<b>Respondent by</b>	<b>Sh. F. R. Meena, Sr. DR</b>

<b>Date of Hearing</b>	<b>06.10.2016</b>
<b>Date of Pronouncement</b>	<b>14 .12.2016</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed against the order dated 16/8/2012 passed by CIT(A) Rohtak.

2. The assessee charitable Trust has been engaged in imparting education which charitable purpose includes relief of the poor, education and medical relief etc. under clause (15) of the section .2 of the Income Tax Act. The school is being run by the charitable Trust and its income was treated exempt in assessments under section 143(3) of the Act up to the assessment year 2005-06. Its income for the assessment year 2006-07 was held exempt for the assessment year 2006-07 by Delhi Bench "F" of the ITAT by their order dated 31.8.2012.

3. The assessee charitable Trust filed application in Form No.56D for the grant of exemption in respect of its income for the assessment year 2007-08 under section 10(23C) (vi) of the Act before the Chief Commissioner of Income Tax, Haryana Panchkula. The exemption was granted by the CCIT Panchkula **vide** order dated 22.02.2008 for the assessment year 2007-08. The exemption in respect of its income for the subsequent assessment years 2008-09, 2009-10, 2010-11 and so on is allowable unless the said order was cancelled or withdrawn.

4. According to Circular No.7/2010 (F.No.197/21/2010-ITA-1) dated 27.10.2010 of the Central Board of Direct Taxes, in case of approvals under sub-clauses (iv) and (v) of section 10(23C) issued on or after **1.12.2006**, the sub-clauses (vi) and (vi a) of that sub-section will also be one time approval which would be valid till it is withdrawn. The Assessing Officer had issued notice under section 148 of the Act on 23.2.2010 for the assessment year 2008-09 on the ground that the assessee had not received the approval from the CCIT especially when the receipts for the previous year of Rs.2,30,54,768 exceeded Rupees one crore. In reply the assessee submitted that the approval having been granted by the CCIT Panchkula on 22.02.2008 for the assessment year 2007-08 in perpetuity, the exemption will be allowable for the assessment year 2008-09 and for subsequent years in accordance with the instructions of the Board contained in the above mentioned circular. The instructions of the Board being binding on the subordinate authorities, the Assessing Officer dropped the proceedings under section 148 of the Act for the assessment year 2008-09, vide his order dated 3.12.2010.

5. The assessee charitable Trust filed the application in form No.56D on 27.03.2009 before the CCIT Panchkula for the assessment year 2008- 09 even when the said application was not maintainable. Similarly, the assessee charitable Trust had filed the applications in form No.56D for the assessment

years 2009-10 and 2010-11 on 15.09.2010 and 13.10.2010 respectively. The successor CCIT Panchkula rejected the exemption claim for the assessment year 2008-09 vide his order dated 15.09.2011. Similarly, he rejected exemption claims for the assessment years 2009-10 and 2010-11 vide his order dated 13.10.2011. The assessee charitable Trust filed rectification application before the CCIT Panchkula. Similarly the assessee charitable Trust filed the application before the Chairman, Central Board of Direct Taxes with the request to direct the CCIT Panchkula to rectify his orders for the assessment years 2008-09, 2009-10 and 2010-11. The orders have not been rectified by the CCIT Panchkula for the assessment years 2008-09, 2009-10 and 2010-11 nor did Chairman of Central Board of Direct Taxes issued directions to the CCIT Panchkula to rectify his orders for the said three years. Relying on the orders of the CCIT Panchkula for the assessment years 2009-10 and 2010-11, the Assessing Officer has denied exemption to the assessee charitable Trust under section 10(23C) (vi) of the Act. Aggrieved by this the assessee charitable Trust filed appeal before the CIT(A). The CIT(A) relied on the order of the CCIT Panchkula and dismissed the appeal of the assessee charitable Trust for the assessment year 2009-10.

6. The Ld. AR submitted that vide order dated 16/9/2016. The Revenue has approved the Registration u/s 10(23C)(vi) from Assessment Year 2007-08.

7. The Ld. DR could not controvert the order dated 16/9/2016.

8. We have heard both the parties and perused all the documents. It is clear from the order dated 16/9/2016 passed u/s 10(23C)(vi) of the Income-tax Act 1961 that the assessee is registered for the period under challenge. The assessee charitable Trust had filed the applications in form No.56D for the assessment years 2009-10 and 2010-11 on 15.09.2010 and 13.10.2010 respectively. Similarly, these applications were not required nor were

maintainable for these two years, especially when the CCIT Panchkula had granted exemption after **1.12.2006** on 22.02.2008 in perpetuity for the assessment year 2007-08, in the light of the instructions of the said Circular of the Board. But in spite of this all, the successor CCIT Panchkula rejected the exemption claim for the assessment year 2008-09 vide his order dated 15.09.2011. Similarly, he rejected exemption claims for the assessment years 2009-10 and 2010-11 vide his order dated 13.10.2011. The orders of the CCIT Panchkula being apparently wrong in the light of the instructions of the Board in the said circular, the assessee charitable Trust filed rectification application before the CCIT Panchkula. Similarly the assessee charitable Trust filed the application before the Chairman, Central Board of Direct Taxes with the request to direct the CCIT Panchkula to rectify his orders for the assessment years 2008-09, 2009-10 and 2010-11. But in spite of all, the rectification orders have not been rectified by the CCIT Panchkula for the assessment years 2008-09, 2009-10 and 2010-11 nor did Chairman of Central Board of Direct Taxes issued directions to the CCIT Panchkula to rectify his orders for the said three years. Relying on the orders of the CCIT Panchkula for the assessment years 2009-10 and 2010-11, the Assessing Officer has denied exemption to the assessee charitable Trust under section 10(23C) (vi) of the Act. Therefore, earlier order dated 13/10/2011 and the subsequent order passed by the CIT(A) does not survive. The assessee is registered for the period under challenge.

9. In result, appeal is allowed.

**The order is pronounced in the open court on 14<sup>th</sup> of December, 2016.**

**Sd/-**

**(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER**

**Sd/-**

**(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Dated: 14/12/2016

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI

		Date	
1.	Draft dictated on	07.10 2016	PS
2.	Draft placed before author	07.10.2016	PS
3.	Draft proposed & placed before the second member	10.2016	JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS	14.10.2016	PS/PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk	14.12 .2016	PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		