

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER AND
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

ITA Nos.622 & 623(Asr)/2017
Assessment Years:2010-11 & 2011-12

ITO, (Exemption),
Ward, Jalandhar

Vs. K.M.V. Collegiate, Sr. Secondary
School, Jalandhar

PAN:AACA8863C

(Appellant)

(Respondent)

Appellant by: Sh. A.N. Misra (Ld. DR)
Respondent by: Sh. Y.K. Sud (Ld. CA)

Date of hearing: 25.01.2018
Date of pronouncement: 16.03.2018

ORDER

PER N.K.CHOUDHRY, JM:

The instant appeals have been preferred by the Revenue Department, on feeling aggrieved against the orders dated 03.07.2017 in respect of Asst. Years: 2010-11 & 2011-12 respectively, passed by the Ld. CIT(A)-2, Jalandhar by raising the following grounds of appeal.

“i. That on the facts and circumstances of the case, the Ld. CIT(A) has erred in law in deleting the addition of Rs.36,99,026/- and extending the benefit of exemption to an entity without having approval for exemption u/s 10(23C)(vi) that being the statutory requirement.

ii. That on the facts and circumstances of the case, the Ld. CIT(A) has erred in law in considering the reassessment proceedings as invalid by relying on the judgment reported in 376 ITR 110 which is distinguishable to the facts of the present case.

iii. That on the facts and circumstances of the case, the Ld. CIT(A) has erred in law in not considering that the assessee does not exist solely for educational purpose as the aims and objects of the institution are partly religious in nature.

*iv. That on the facts and circumstances of the case, the Ld. CIT(A) has erred in law in not considering that the Worthy CCIT, Ludhiana had rejected the claim of assessee for approval u/s 10(23C)(vi) as the institution is not existing "**solely for educational purposes**".*

v. That the appellant craves to leave, add or amend the grounds of appeal on or before the appeal heard and disposed off."

2. We have gone through with the facts and circumstances of the case and rival submissions of the parties and material placed on record, specifically the order dated 15.07.2016 passed by the Co-ordination Bench of ITAT, Amritsar, in ITA Nos.154 & 155(Asr)/2016 qua A.Y.2007-08 and 2008-09, on similar and identical grounds and circumstances, on which our attention was drawn by the Ld. AR.

The Ld. CIT(A) while adjudicating the appeal of the assessee, respectfully followed the aforesaid order passed by the Co-ordination Bench of ITAT at Amritsar. The operative part of the order is reproduced herein below.

"4.9 Having considered the material available on record including a copy of the judicial decisions which has been cited by the appellant, I find that Honourable ITAT Amritsar bench while its order dated 15. 07. 2016 in the case

of KMV have considered the issue of reopening of assessment under section 147/148 of the IT Act and also of denial of exemption under section 10(23C)(iiiad) to the appellant institution. Honourable Tribunal have discussed the issue of reopening of assessment under section 147/148 of the IT Act in detail in its order and after considering the decision of Honourable Punjab and Haryana High Court reported in 376 ITR 110 decided that notice issued under section 147 of the IT Act was invalid and therefore the other ground of appeal does not survive for adjudication.

4.10 Since the facts in the present case are identical and therefore respectfully following the order of the Honourable ITAT, the reassessment proceedings initiated by the AO under section 147 of the IT Act are held to be invalid. Further, it is seen from the record that even on merits, the claim of exemption u/s 10(23 C)(vi) of the IT Act has been allowed by the Hon'ble ITAT to the appellant in its order dated 22.02.2017 in ITA no. 523/ASR/2016. Therefore, appeal filed on the other grounds becomes in-fructuous.

5. In the result, appeal is allowed.”

Although the appeal was heard as a covered matter in reference to the case decided by the Co-ordinate Bench in the case of KVM Collegiate Sr. Secondary School vs. ITO, in ITA No.154 and 155(Asr)/2016 dated 15.07.2016 in which, it was observed that even if some of the objects does not fall strictly within the purview of education, then the same could be disregarded, if not persuaded, therefore, in the instant case, it was argued by the Id. AR that the object of teaching Vedic dharma, Brahamchariya, Aryan culture, classical Sanskrit and Vedas does not bar in treating the assessee's institution as existing solely for the purpose of education which qualifies the parameters of Sec.10(23C)(vi) of the Act. We remind ourselves to the object clause of the institution which defined its character and to pursue which it stands formed and the approval u/s 10(23C)(vi) necessitates that institution means exists solely for

the purpose of education and 'solely' in any sense cannot be overlooked because existence of the power is more relevant rather than its actual exercise. The primacy of the object clause was also reiterated by the Apex Court in the case of CIT vs. Palghat Shadi Mahal Trust [2002] 254 ITR 212 (SC), therefore, the argument of the Ld. AR based on the decision followed by the Tribunal not sustainable, where the object clause other than the education also form part of its constituting charter, however, considering the object of the Vedic dharma, Brahamchariya, Aryan culture, classical Sanskrit and Vedas, in our considered view could be regarded as an object of education, in the form of imparting of systematic understanding on any aspect of life and field of human endeavour and any phenomenon of nature etc. is all education in view of explanation propounded by the Apex court in the case of sole trustee, Loka Sikshahana Trust vs. CIT[1975] 101 ITR 234 (SC). 'Education' has to be understood as systematic education, schooling or training imparted to the young generation in preparation for the work of like which includes whole course of scholastic instruction which a person receives.

In our considered view if the object of education is to produce an informed person, aware of his own self, his role and responsibility toward himself and the society at large, shape his moral fibre, what better than the sublime Vedas, shedding light on every aspect of human existence and whose benign presence has shown the mankind the way for a happy and peaceful

coexistence, in harmony self with each other and the nature, through the ages.

On the aforesaid analysis, consideration, observation and reasons, we do not have any hesitation to uphold the assessee's claim of existing solely for the education purposes, satisfying the mandate of Section 10(23C)(vi). Accordingly, we are inclined to uphold the impugned order.

3. In the result, the appeals filed by the Revenue Department under consideration stands dismissed.

Order pronounced in the open Court on 16.03.2018.

Sd/-
(SANJAY ARORA)
ACCOUNTANT MEMBER

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated:16.03.2018

/PK/ Ps.

Copy of the order forwarded to:

- (1) K.M.V. Collegiate Sr. Sec. School, Jalandhar
- (2) The ITO, Ward Jalandhar
- (3) The CIT(A)-2, Jalandhar
- (4) The CIT concerned.
- (5) The SR DR, I.T.A.T., Amritsar

True copy

By order