

IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 45/Jab/2017

निर्धारण वर्ष/ Assessment Year : 2016-17

Birla Education Society, Priyamvada Birla School, Birla Vikas, Satna (M.P.) PAN : AAAAB 3977 G	Vs	Commissioner of Income-Tax (Exemptions), Satna (MP)
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Sapan Usrethe, Adv.
Revenue by :	Shri V.B. Sargar, DR

सुनवाई की तारीख/Date of Hearing : 13/03/2018

घोषणा की तारीख /Date of Pronouncement: 14/03/2018

आदेश/ORDER

PER KUL BHARAT, JUDICIAL MEMBER:-

This appeal filed by the assessee is against the order of the learned Commissioner of Income-tax (Exemption), Bhopal dated 14.08.2017 declining the approval sought by the assessee-society under Section 10(23C)(vi) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') .

2. The assessee has raised following grounds in its appeal:-

"1. The learned Commissioner of Income Tax (Exemption) was not justified in rejecting the application for exemption under section 10(23C)(vi) and (via) of the Income tax Act on technical ground.

2. The learned Commissioner of Income Tax (Exemption) was not justified in accepting the reply send through e mail in response to show-cause notice on a vague ground even otherwise, assessee has also send the signed copy of reply through speed post.

3. *The learned Commissioner of Income Tax (Exemption) was not justified in rejecting the application for exemption under section 10(23C) (vi) and (via) of the Income tax Act on the ground that figures were not correctly mentioned as it can be given at any time and all the details are available in the audit report which was enclosed along with application.*

4. *The learned Commissioner of Income Tax (Exemption) was not justified in ignoring the revised Form 56D filed on August 31, 2017 wherein the year is properly mentioned and figures in column 10 and 11 are also mentioned.*

5. *The appellant craves for leave to amend, add to or omit any ground up to the time of hearing of the appeal."*

3. At the outset, learned Counsel for the assessee submitted that the assessee was not given proper opportunity of being heard by the Id. CIT(Exemption) before rejecting the application filed under Section 10(23C)(vi) of the Act. In this regard, he invited our attention to the impugned order and submitted that the requisite details were sent by the assessee through email. It was also contended by the assessee that it has sufficient material to prove that the assessee is entitled for claiming exemption under Section 10(23C)(vi) of the Act. Learned Departmental Representative, on the other hand, opposed the submissions so made by the assessee.

4. Having heard the rival contentions and having perused the material available on record, we find that the impugned order was passed by the Id. CIT(Exemption) without affording proper opportunity of being heard to the assessee. In view of the above, as also bearing in mind entirety of the case, we deem it fit and proper, in the interest of justice, to restore this issue to

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the file of the CIT(Exemption) for decision afresh after affording due opportunity of being heard to the assessee.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 14th March, 2018 at Jabalpur.

Sd/-

**(MANISH BORAD)
ACCOUNTANT MEMBER**

Jabalpur; Dated 14/03/ 2018

Et

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,/ DR, ITAT, Jabalpur
6. गार्ड फाईल / Guard file.

TRUE COPY

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./ Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Jabalpur