



which were incorporated under section 25 of the Companies Act, 1956 as a company not for profit for the purpose of socio-economic upliftment to target group of Safai Karamcharis & Manual Scavengers who belong to Scheduled Caste, Scheduled Tribe or Other Backward Classes who are the poorest of the poor in the society and many persons in the target group are involved in inhumane practice of scavenging and other sanitation activities, and primarily belong to Valmiki or similar communities which are categorized under Scheduled Caste.

3. For the Assessment Year 2014-15, the assessee filed their return of income showing nil income and also claiming the benefits of Section 10(26B) of the Act. Assessment u/s 143(3) of the Act was completed with addition of Rs.8,85,94,931/- by denying the exemption u/s 10(26B) of the Act. Learned Assessing Officer denied the exemption on the ground that the assessee could not certify that the beneficiaries of the assessee are limited or restricted to the Scheduled Caste, Scheduled Tribe or Other Backward Classes. According to the Assessing Officer, the basis of the exemption section 10(26B) of the Act is a caste and not the activities of the target group.

4. Aggrieved by the action of the Assessing Officer, assessee preferred an appeal before the Learned CIT(A). Learned CIT(A) has upheld view of the Assessing Officer and for the identical reasons he confirmed the view taken by the Assessing Officer and dismissed the appeal.

5. Assessee is, therefore, in this appeal before us contended that the orders of the authorities below are not in conformity with law. It is the

submission of the Learned AR that the Learned AO has restricted the interpretation of section 10(26B) of the Act by ignoring the primary objects of the Constitution of India while passing the assessment order. According to him, section 10(26B) has to be interpreted in such a way as to promote the schemes undertaken for ameliorating the lot of the members of the Schedule Castes or the Scheduled Tribes or other backward classes in the light of the provision of the Constitution of India in Article 46 & 47. He further submitted that the State Channel Agency which is governed by the State Corporation will be financing the various categories, as per the direction of the state, but the funds of the assessee transferred to the State Channel Agency are being exclusively channelized for the benefit of the target group of the assessee, namely, SafaiKaramcharis (SK) and Manual Scaengers (MS), who primarily belong to Scheduled Caste, Scheduled Tribe or Other Backward Classes. Since the State Channel Agency and the assessee are separate bodies working for achieving their independent objectives, just because the name of the State Channel Agency hints that it is serving communities other than SC, ST and OBC it shall not be assumed that the assessee is also serving any community other than SC, ST and OBC. He further submitted that they have produced such Certificate issued by the Dy. General Manager of the assessee Corporation and also the copy of the letter dated 23.08.2000 addressed by the Delhi Scheduled Castes Financial & Development Corporation Ltd. to the Managing Director of the assessee Corporation to show that a general agreement was duly signed by the Managing Director of the State Agency for availing of finance from the assessee for the benefit of SC Community only inhabiting in Delhi having SC Certificate issued by Dy. Commissioner of area concerned of Delhi.

6. Per contra, it is the submission on behalf of the Revenue that because the assessee failed to produce any evidence whatsoever to show that the assessee is exclusively working for promotion of the interest of the members of the Schedule Castes or the Scheduled Tribes or other backward classes or any two or all of them, the authorities below are justified in denying the benefit of Section 26B, and in the light of the letter dated 22.03.2000, it is clear that the finance provided by the assessee to the State Agency has exclusively been used for the benefit of SC Community only inhabiting the Delhi having SC Certificate issued by the Dy. Commissioner of area concerned of Delhi.

7. We have gone through the record in the light of the submission on either side. The requirement of Section 10(26B) is that a Corporation established by a Central or State Act, wholly financed by the Government and working for the promotion of interest of the members of Schedule Castes or the Scheduled Tribes or other backward classes is entitled to claim the benefit of section 10(26B) and income shall not be included in total income. It is an admitted fact by both the authorities below held that the assessee is a Section 25 Company fully owned by the Government of India. As its names suggests the assessee has been engaged in the work of development of the National SafaiKaramcharis who are involved in the upliftment of SafaiKaramcharis& Manual Scavengers who belong toScheduled Caste, Scheduled Tribe or Other Backward Classes and also in the inhumane practice of scavenging and other sanitation activities. SafaiKaramcharis& Manual Scavengers are the poorest of the poor in the society and it does not require any Certificate to know the said fact. Further, Section 10(26B) clearly says

that the target group could be the members of the Schedule Castes or the Scheduled Tribes or other backward classes or any two or all of them. It, therefore, makes the things clear that if an entity is a corporation established by a Central or State Act is engaged in the upliftment of SC or ST or OBC or a mix of them is entitled to claim benefit u/s 10(26B). As we have observed above, it could be said that any category of members in the activity of Manual Scavengers or Safai work could fall in any of these three categories. Section 10(26B) contemplates not only the caste but also class.

8. Further, the letter dated 22.03.2000 clinches the issue wherein the state agency clearly stated that the finances from the assessee to the State agency was exclusively for the benefit of SC community inhabiting the Delhi area and possessing the Certificate to such an effect. It also stated therein that a general agreement was on this aspect between the assessee and state agency. These circumstances do not admit of any doubt as to the entitlement of the assessee to claim the benefit under section 10(26B) and with that view of the matter we find it difficult to agree with the view of the authorities below. We, therefore, set aside both the orders and direct the Learned Assessing Officer to allow the assessee to benefit of section 10(26B) of the Act.

9. In the result, appeal of the assessee is allowed.

**Order pronounced in the Open Court on 20<sup>th</sup> Nov, 2019.**

Sd/-  
**(R.K. PANDA)**  
**ACCOUNTANT MEMBER**

Sd/  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

**Dated: 20<sup>th</sup> Nov, 2019**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Draft dictated on	19.11.2019
Draft placed before author	20.11.2019
Draft proposed & placed before the second member	20.11.2019
Draft discussed/approved by Second Member.	20.11.2019
Approved Draft comes to the Sr.PS/PS	20.11.2019
Kept for pronouncement on	20.11.2019
Date on which the fair order comes back to the Sr.P.S./P.S	21.11.2019
Date of uploading order on the website	21.11.2019
File sent to the Bench Clerk	21.11.2019
Date on which file goes to the AR	
Date on which file goes to the Head Clerk.	
Date of dispatch of Order.	