

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL 'C' BENCH: CHENNAI**

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री एस. जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND  
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

**I.T.A. No.43/Chny/2020  
Assessment Year: 2019-2020**

M/s. The Tamilnadu Dr. M.G.R.  
Medical University,  
No.69, Anna Salai,  
Guindy,  
Chennai – 600 032

**Vs.** The Deputy Commissioner of  
Income Tax (Exemptions),  
No.121,  
Nungambakkam High Road,  
Nungambakkam,  
Chennai – 600 034.

**[PAN: AACAT 0098E]**

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: Mr. S. Sridhar, Advocate  
: Mr. Abani Karta Nayak, CIT

सुनवाई की तारीख/Date of Hearing

: 09.09.2020

घोषणा की तारीख /Date of Pronouncement

: 16.09.2020

**आदेश / ORDER**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the Assessee is directed against the order of the learned Commissioner of Income Tax (Exemptions), Chennai in I.T.A. No.CIT(E) No.3(6)/2017-18 dated 28.09.2018 relevant to the assessment year 2019-2020.

2. In this case, there is a delay of 404 days in filing the appeal. The Registrar of 'The Tamil Nadu Dr. M.G.R. Medical University (who is the

Assessee before us) filed an Affidavit explaining the delay in filing the appeal.

3. The learned Counsel for the Assessee had submitted that the delay in filing the appeal was neither intentional nor wantonly. It is only the difficulty of the office in-charge to understand the order passed by the learned Commissioner of Income Tax (Exemptions) and learned Counsel submitted that the assessee being a medical university created by the statutes of the Tamil Nadu Act 37 of 1987, no harm would be caused to the Department, if the delay is condoned and hence submitted that the delay may be condoned and the Order passed by the learned Commissioner of Income Tax (Exemptions) may be set aside and the matter be remitted back to the learned Commissioner of Income Tax (Exemptions) for fresh considerations. He also undertook that all the relevant informations will be filed before the learned Commissioner of Income Tax (Exemptions).

4. On the other hand, the learned Departmental Representative strongly opposed the condonation of delay.

5. We have heard both the sides and perused the affidavit filed by the Registrar of the Assessee. The relevant portion of the Affidavit explaining the delay in filing the appeal is extracted as under:

*"I state that the order of the CIT (Exemptions) was received in our office on 01.10.2018 and I state that the consequence of the order was not understood by the officials in-charge of the Accounts Department and I state*

*that the Chartered Accountant, Mr. T. Baskaran was appointed to handle the Income Tax cases pertaining to the Assessment Year 2017-18 on 26.06.2019 while I state that the consequences of not challenging the order of the CIT (Exemptions) in rejecting the plea for grant of recognition u/s.10(23C)(vi) of the Income Tax Act, 1961 were explained to him.*

*I state that the Petitioner / Appellant was assisted by the Accounts Department and further audited by the Local Fund Audit Department of the State Government in as much as I state that in the absence of proper professional advice, the issues arising from the Income Tax were not addressed / focussed by the Petitioner / Appellant on the presumption of its creation by the local Act, namely, The Tamilnadu Dr. M.G.R. Medical University Chennai Act, 1987 (Tamil Nadu Act 37 of 1987).*

*I state that the recognition u/s.10(23C)(vi) of the Act would have direct impact in the tax exemption computation contemplated in relation thereto and in the absence of such recognition, the assessment for the assessment year 2017-18 was completed by the Respondent herein on 11.12.2019. I state that in the process of challenging the assessment order, the order of the PCIT (Exemptions) dated 28.09.2018 was also challenged before the Jurisdictional Bench of the Income Tax Appellate Tribunal belatedly based on the professional advice received.*

*Accordingly, I state that the appeal before the Jurisdictional Bench of the Income Tax Appellate Tribunal was prepared and filed on 08.01.2020 belatedly by 404 days and I state that the delay in filing the appeal before the Bench was neither wilful nor deliberate but due to circumstances beyond our control while I state that the Petitioner / Appellant was established by the State Act and in view of the said fact, the Petitioner / Appellant presumed for enjoying tax exemption under the Act which is considered to be incorrect stand according to the Revenue and realized after getting proper professional advice from the Chartered Accountant and counsel on record on the necessity to file the appeal before the Bench to challenge the impugned order.”*

6. From the above, it is clear that the Assessee is a State University and from the Affidavit we find that the Office In-charge of the Accounts

Department was not in a position to understand the consequence of the Order and that apart the Assessee being a University created by the State, i.e. Tamilnadu Dr. M.G.R. Medical University Chennai Act, 1987 (Tamil Nadu Act 37 of 1987).

So far as the condonation of delay is concerned, we are of the view that while considering the condonation of delay, what is to be seen is whether the interest of the Revenue will stand protected even while recognizing the right of the Assessee to exercise the statutory remedies available to the Assessee and that the statutory right of an appeal cannot be made redundant by dismissing the application for condonation of delay and rejecting the appeal on technical grounds. In our considered view, when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be referred. In view of the above, the delay of filing this appeal is condoned.

7. So far as the merits of the case is concerned, the Assessee is a Tamilnadu Dr. M.G.R. Medical University created under the Tamil Nadu Act 37 of 1987 with the following objects:

- i. To provide for instruction and training in such branches of learning as it may determine in the field of medical science;
- ii. To provide for research and for the advancement and dissemination of knowledge in the field of medical science;
- iii. To institute degrees, diplomas and other academic distinctions;
- iv. To institute lectureships, readerships, professorships and other teaching posts required by the University and to appoint persons to such lectureships, readerships, professorships and other teaching posts;

- v. To institute and award fellowships, scholarships, studentships, bursaries, exhibitions, medals and prizes in accordance with the statutes;
- vi. To institute research posts and to appoint persons to such posts;
- vii. To organize advanced studies and research programmes from time to time;
- viii. To organize continuing medical education programme;
- ix. To develop research facilities and
- x. To encourage co-operation among the colleges, University laboratories, hospitals and institutions in the University area and to co-ordinate with other Universities and other authorities in such manner and for such purposes as the University may determine.

8. The Assessee with the above objects had applied for exemption u/s.10(23C)(vi) of the Income Tax Act, 1961 by filing Form No.56D on 05.09.2017. The learned Commissioner of Income Tax (Exemptions) called for a report with the Assessing Officer. The Assessing Officer submitted a report on 24.09.2018 recommending not to grant exemption u/s.10(23C)(vi) of the Income Tax Act, 1961 on the ground that the Assessee had not submitted relevant materials and that the Assessing Officer had issued a letter dated 08.11.2018. The learned Commissioner of Income Tax (Exemptions) by considering the same, has rejected the exemption for the Assessee University by observing that though the University is in existence, however, the prescribed authorities are not able to give exemption, as the nature of its genuineness of the institution solely for the reason that the Assessee did not furnish any information for necessary verification. Since, the Assessee failed to furnish the relevant information for necessary examination, his office is forced to reject the application filed in Form No.56D u/s.10(23C)(vi) of the Income Tax Act, 1961.

9. After considering the entire facts and arguments of both the sides, we find that the Assessee University was created with an object of discharging various important aspects on medical education and it is clear from the objects of the Assessee. The learned Commissioner of Income Tax (Exemptions) rejected the exemption claimed by the Assessee u/s.10(23C)(vi) only on the ground that the Assessee has not furnished relevant materials before the authorities below. We find that there is a lapse on the part of the Assessee. However, keeping in view the Assessee status for which it was established mainly to discharge various important aspects on medical education, we are of the opinion that one more opportunity should be given to the Assessee to substantiate his case before the learned Commissioner of Income Tax (Exemptions). Therefore, we set aside the order passed by the learned Commissioner of Income Tax (Exemptions) and we remit the issue back to the learned Commissioner of Income Tax (Exemptions) to examine the entire issue afresh and decide in accordance with law. We also further direct the Assessee that when the date is given by the learned Commissioner of Income Tax (Exemptions) for hearing, the Assessee should file all relevant necessary information without fail. The learned Counsel who appeared before us, Mr. S. Sridhar has already submitted that all necessary information would be filed before the learned Commissioner of Income Tax (Exemptions). In view of the above, the appeal filed by the Assessee is allowed for statistical purpose.

10. In the result, the appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced in the open Court on 16<sup>th</sup> September, 2020 in Chennai.

**Sd/-**

(श्री एस. जयरामन)

**(S. JAYARAMAN)**

लेखा सदस्य/ACCOUNTANT MEMBER

**Sd/-**

(वी दुर्गा राव)

**(V. DURGA RAO)**

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai, दिनांक/Dated: 16<sup>th</sup> September, 2020

IA, Sr. P.S

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant  
2. प्रत्यर्थी/Respondent  
3. आयकर आयुक्त (अपील)/CIT(A)  
4. आयकर आयुक्त/CIT  
5. विभागीय प्रतिनिधि/DR  
6. गार्ड फाईल/GF