

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.2530/Bang/2017, ITA No.3147/Bang/2018 & ITA No.2431/Bang/2019
Assessment Years: 2016-17, 2017-18 & 2018-19 respectively

M/s. Southern India Banks' Staff Training College No.9, Shankaramath Road Shankarapuram Bengaluru 560 004. PAN NO : AAATS5632E	Vs.	CIT (Exemptions) Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	Smt. R. Prathiba, A.R.
Respondent by	:	Shri Pradeep Kumar, D.R.

Date of Hearing	:	15.04.2021
Date of Pronouncement	:	15.04.2021

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

These 3 appeals filed by the assessee are directed against common order of CIT(A). The assessee has raised following common grounds of appeal:-

1. *On the facts and in the circumstances of the case, the learned Commissioner of Income-tax (E) erred in declining to grant exemption u/s.10(23C)(vi) of the Act to the appellant.*

2. *The learned Commissioner of Income-tax (E) erred in holding that the appellatant institution was not solely for educational purposes without appreciating that the various activities carried on by the appellatant were towards educational purposes of the banking staff and consequently the appellatant had fulfilled all the conditions required u/s.10(23C)(vi) of the Act to avail the exemption as provided therein.*
3. *The learned Commissioner(E) ought to have appreciated that though various objects provided in the Memorandum of Association, the appellatant had wholly promoted the objects in educating the banking staff and consequently he ought to have held that the appellatant was eligible to get the exemption u/s.10(23C)(vi) of the Act.*
4. *The learned Commissioner(E) ought to have appreciated that the other objects provided in the Memorandum of Association would also relate to the promotion of the education amongst the staff and were not to be considered isolated to deny the benefit u/s.10(23C)(vi) of the Act. On the contrary, it was demonstrated before the learned CIT(E) with material evidence in the form of Income and Expenditure Account of the Society for the year ended 31.3.2016 that the other objects viz.,(a) providing appraisal programmes, (b) consultancy services and (c) faculty development programmes were not at all pursued by the Society during the relevant previous year and that the Society existed solely for educational purposes and not for profit; the predominant objective and solitary goal of the Society being imparting of education.*
5. *The learned Commissioner (E) failed to consider the decision of the Income-tax Appellate Tribunal, Bangalore Bench, Bangalore in the case of National Institute for rural Banking (ITA No.923/Bang/2011 dt.17.7.2012) stating that although the case is squarely applicable in the appellatant's current case, the allowability for grant of exemption by ITAT, Bangalore is not the final authority and finality had not yet been reached.*
6. *The learned Commissioner (E) grossly erred in failing to understand the vast meaning of the word 'Education' which is not specifically defined under the Income-tax Act and went ahead to distinguish the various judgments placed before him by the appellatant by merely stating that the appellatant society was not engaged in educational activities in the true sense.*
7. *For these and other grounds that may be urged at the time of hearing of the appeal, the appellatant prays that the appeal may be allowed.*

2. After hearing both the parties, we are of the opinion that similar issue came for consideration before this Tribunal in assessee's own case in ITA No.2057/Bang/2016 and the Tribunal vide its order dated 11.3.2021 held as follows:

"2. The ld. AR submitted that the issue before the Tribunal was with regard to, whether the assessee is entitled for exemption u/s. 10(23C)(vi) of the Act. It was submitted that in the earlier AY 2014-15, the issue came up for consideration before the Tribunal and vide order dated 26.8.2016 in ITA No.1408/Bang/2015, the Tribunal confirmed the order of the CCIT in denying exemption u/s. 10(23C)(vi) of the Act. The appeal against the Tribunal's order is pending before the Hon'ble High Court of Karnataka, wherein the following questions of law are framed:-

"1. Whether in law, the Tribunal was right in rejecting the application for exemption under Section 10(23C)(vi) of the Act without considering the vast definition that the word "education" embraces although there being no specific definition for "education" under the Income-tax Act of 1961?

2. Whether in law, the Tribunal was right in construing that the activities carried on by the appellant-society were not for educational purposes?"

3. The Hon'ble Court was pleased to admit the appeal and framed the substantial questions of law, which reads as under:-

"Whether in law, the Tribunal was right in rejecting the application for exemption under section 10(23C)(vi) of the Act without considering the vast definition that the word 'education' embraces although there being no specific definition for 'education' under the Income-tax Act of 1961?"

4. Further it was submitted that the Tribunal in the earlier ultimately has held that the judgments cited were not helpful to the appellant's case and had further observed that the objects of the appellant-society are not in respect of educational purposes and they amounted to consultancy services. It was on these reasons the appeal had been

dismissed. However, in the relevant year before the Hon'ble Court the appellant had made a detailed submission before the CCIT citing various case laws to support its case, though CCIT referred these cases tried to distinguish the same to justify the denial of exemption. The CCIT, however, failed to consider the fact that the appellant institution is carrying on educational activity. He had not controverted the fact that the appellant had not carried on any activity of mere consultancy. The appellant specifically brought to the notice of the CCIT that the appellant was imparting training to the personnel of member banks and other objectives enumerated in the Memorandum providing appraisal programs, consultancy services and other matter conducive to economic betterment are not all pursued by the society. In facts the audited account for the year 31.3.2012 to 31.3.2015 were furnished to prove that there was no receipt received for such activity. Even the surplus made was not conclusive to hold that the appellant society was not eligible for exemption under section 10(23C)(vi) of the Act as held by the Hon'ble Supreme Court in the case of Aditanar Educational Institution vs. Addl.CIT (1997) 224 ITR 310 (SC) and also the decision of the Punjab and Haryana High Court in the case of Pine Grove International Charitable Trust vs. UOI and Others (2010) 327 ITR 73 (P&H). The submission of the appellant before the CCIT had been brought out in the order of the CCIT. The various judgments referred to therein would support the case of the appellant. Further, the order in the case of ITAT, Bangalore Bench, Bangalore in the case of ADIT(E) vs. M/s.National Institute for Rural Banking, ITA No.923/B.2011 dt.24th July 2012 and also the Bombay Tribunal in the case of National Institute of Bank Management vs. ADIT - ITA No.2057/Bang/2016 Page 5 of 7 ITA Nos.2913 86 2914/Mum/2016 dt.25.1.2018 were furnished to support the case of the appellant. In the Bombay Tribunal's judgment the Tribunal had also held under identical circumstances the institution is for educational purposes and also eligible for exemption under section 11 of the Act. Having held that the appellant in that case was eligible for exemption u/s.11 of the Act, it did not consider the fact as to whether the institution was eligible for exemption u/s.10(23C)(vi) of the Act, even though a prayer in this regard was made by the appellant. Further the appellant relied on the following judgments:-

- (a) Digember Jain Society for Child Welfare vs DGIT(E) 329 TR 459(Del)*
- (b) C.P.Vidya Niketan Inter College Shikshan Soc. Vs. UOI 359 ITR 322 (All)*

5. *On the similar circumstances, the ITAT, Bombay Bench has held that the appellant was for educational institution. In the appellant's own case the ITAT, Bangalore Bench had not gone into the real issue that the appellant-society was for educational purposes and held that their services were only for consultancy which was contrary to the facts of the case which was not gone into detail by the Tribunal.*

6. *In the circumstances, it is submitted that the judgment of the Appellate Tribunal is distinguishable and on the facts of the case of the appellant before the Appellate Tribunal the other judgment would apply and the appellant was entitled to the exemption u/s.10(23C)(vi) of the Act as claimed.*

7. *In view of the above, it is prayed that the appeal may kindly be blocked until the disposal of the appeal by the Hon'ble High Court of Karnataka in the appellant's own case for the assessment year 2014-15. In the alternative, it is also prayed that the order of this CIT may kindly be set aside and the matter may be restored to the file of the CIT for fresh ITA No.2057/Bang/2016 Page 6 of 7 adjudication awaiting the judgment of the Hon'ble Court in the case of the appellant for the assessment year 2014-15.*

8. *On the other hand, the ld. DR relied on the order of the Tribunal for earlier year and submitted that the issue need not be remitted to the file of the CIT(Exemptions) as the issue has already been decided against the assessee for the AY 2014-15.*

9. *We have heard both the parties and perused the material on record. Admittedly, the Tribunal in the earlier year for AY 2014-15 only relied on clause (d) & (g) of the Memorandum of Association of the assessee college and overlooked clause (a) & (b) of the Memorandum of Association. However, at this stage, we are not in a position to take a decision in favour of the assessee, since the decision of the Tribunal is not disturbed by any higher forum. However, in the interests of justice, it is appropriate to remit the issue in dispute to the file of the CIT(Exemptions) for appropriate decision, after the final judgment of the Hon'ble High Court of Karnataka in the case of assessee for the AY 2014-15. With these observations, we remit the issue to the file of the CIT(Exemptions).*

10. *In the result, the appeal by the assessee is allowed for statistical purposes."*

3. Taking a consistent view, we remit this issue in dispute to the file of the A.O. on similar directions.

4. In the result, the appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in the open court on 15th Apr, 2021

Sd/-
(Beena Pillai)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 15th Apr, 2021.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.