

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B": HYDERABAD  
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 169/H/2020		
Hyderabad Educators Academy, Hyderabad  PAN - AABAH 2058P  (Appellant)	Vs	Commissioner of Income-tax (Exemptions), Hyderabad  (Respondent)
Assessee by:		Shri A.V. Raghuram
Revenue by:		Shri Y.V.S.T. Sai
Date of hearing:		30/08/2021
Date of pronouncement:		09/09/2021

**ORDER**

**PER L.P. SAHU, A.M.:**

This appeal filed by the Assessee is directed against CIT(Exemptions), Hyderabad's order dated 30/05/2018 involving proceedings u/s 10(23C)(vi) of the Income- Tax Act, 1961; in short "the Act", on the following grounds of appeal:

*"1. On the facts and in the circumstances of the case, the order passed by the Id. Commissioner of Income Tax (Exemptions), Hyderabad, is anti-dated and is barred by limitation.*

2. *Without prejudice to above, the CIT(E) erred in holding that the Appellant is having object other than education and therefore is not existing solely for educational purpose. The ld. CIT(E) failed to appreciate that all the objects are with respect to education and its attended activity.*

3. *Without prejudice to the above, the ld. CIT(E) failed to appreciate that the Appellant has only carried on only educational activity and nothing else.*

4. *The ld. CIT(E) erred in holding that the Appellant is collecting exorbitant fee from the wards towards tuition fee, sports, cultural activities, lab fee, meals etc. The CIT(E) failed to appreciate that the fee collected is based on what is provided by the Appellant to the wards and is reasonable.*

5. *The finding of the CIT(E) that Appellant has spent either meagre / nil amount on weaker section of society is not relevant consideration for grant of approval under section 10(23C)(vi) of the Act. '*

6. *The findings of the CIT(E) about alleged fraudulent claim of rent is incorrect and at any rate is not relevant for the purpose of grant of approval under section 10(23C)(vi) of the Act. At any rate, the ld. CIT(E) without providing opportunity to the Appellant has arrived at incorrect finding.*

7. *The findings of the CIT(E) with respect to rent paid to trustees/relatives as being excessive and in violation of section 13(I)(C) of the Act is incorrect and is not relevant for the purpose of grant of approval under section 10(23C)(vi) of the Act.*

*For these and other grounds that may be urged, it is prayed that the appeal may be allowed."*

2. We notice at the outset that assessee's instant appeals suffer from 25 days delay in filing before the ITAT. To this effect, the assessee filed an affidavit wherein it was affirmed that due to preoccupation of his counsel caused the impugned delay in filing of the instant appeals. Case law Collector Land Acquisition vs Mst. Katiji & Ors, 1987 AIR 1353 (SC) and University of Delhi Vs. Union of India, Civil Appeal No. 9488 & 9489/2019 dated 17 December, 2019, hold that such a delay; supported by cogent reasons, deserves to be condoned so as to make way for the cause of substantial justice. We accordingly hold that assessee's impugned delay is neither intentional nor deliberate but due to the circumstances beyond its control. The same stands condoned. Case is now taken up for adjudication on merits.

3. Briefly the facts of the case are that the assessee had filed an application seeking approval u/s 10(23C)(vi) of the Act in form No. 56D on 30/05/2017.

3.1 The CIT(E) has denied the approval u/s 10(23C) on the following grounds:

- 1) The assessee is running posh school in the name of charitable activity (education) and the assessee has spent either meager/nil amount on weaker section of society.

2) The assessee has claimed rent for various branches of school without furnishing the proper rental agreements.

3) Exorbitant rent paid to trustees/relatives.

4) An amount of Rs. 9,00,000/- paid to Member of the Society towards honorarium, which is in violation of section 13(1)(c) of the Act.

4. Aggrieved, the assessee is in appeal before the ITAT.

5. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. In the interest of justice, we remit the issue back to the file of the CIT(E) with a direction to give one more opportunity to the assessee to substantiate its case against the objections raised by CIT(E) by way of documentary evidence. The assessee is directed to represent its case against the objections raised by the CIT(E) with documentary evidence to enable to get approval u/s 10(23C) of the Act. Needless to say that the assessee may be given reasonable opportunity of being heard in the matter.

6. In the result, appeal of the assessee is treated as allowed for statistical purposes in above terms.

Pronounced in the open court on 9<sup>th</sup> September, 2021.

**Sd/-**  
**(S.S. GODARA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(L. P. SAHU)**  
**ACCOUNTANT MEMBER**

Hyderabad, Dated: 9<sup>th</sup> September, 2021.

*kv*

*Copy to :*

1	<i>M/s Hyderabad Educators Academy, D.No. 6-3-1099/1100, 7<sup>th</sup> Floor, Babukhan Millenium Centre, Somajiguda, Hyderabad - 500 082</i>
2	<i>CIT(E), Hyderabad</i>
3	<i>ITO (E) - 2, Hyderabad.</i>
4	<i>ITAT, DR, Hyderabad.</i>
5	<i>Guard File.</i>