

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR**

(Through web-based video conferencing platform)

BEFORE SHRI SANJAY ARORA, HON'BLE ACCOUNTANT MEMBER &
SHRI MANOMOHAN DAS, HON'BLE JUDICIAL MEMBER

**I.T.A. No. 142/JAB/2018
(Asst. Year : 2013-14)**

Maharshi Mahesh Yogi Vedic Vishwavidyalaya, Karondi, Umaria	vs.	Asst. CIT (Exemption), Circle-Raipur (C.G.)
PAN : AIWPM 8398 R		
(Appellant)		(Respondent)

Appellant by : Shri Asheesh Ternain, FCA
Respondent by : Smt. Simran Bhullar, CIT-DR

Date of hearing : 23/03/2022
Date of pronouncement : 22/04/2022

ORDER

Per Manomohan Das, JM:

This is an appeal by the assessee agitating the order passed by the Ld. Commissioner of Income Tax (Appeals)-I, Jabalpur, Camp at Bilaspur-(C.G.) dated 23-03-2018 under section 250(6) of the Income Tax Act, 1961 (the "Act" hereinafter) for assessment year (AY) 2013-14.

2. The facts of the case are that the assessee is a self-financed educational institution established under the Maharishi Mahesh Yogi Vedic Vishwavidyalaya Adhiniyam, 1995, and is a member of the association of Indian Universities. The assessee filed its return of income declaring Nil income for the A.Y. 2013-14,

which was selected for scrutiny assessment under CASS. The assessee, in compliance to the notice issued under section 143 (2) and 142(1) of the Income Tax Act, 1961, attended before the Assessing Officer (AO) and claimed exemption under section 10(23C) (vi) of the Act as its objects are charitable (Promoting Vedic Education being the principal object). The AO sought copy of the approval under section 10(23C)(vi) of the Act or copy of the registration under section 12A from the assessee. The assessee could not produce the desired documents due to the pendency of the matter with the Hon'ble High Court of Madhya Pradesh. The assessee informed the AO about the petition under s.10(23C)(vi) which was pending before the Hon'ble High Court of Madhya Pradesh (in W.P. No. 21193 / 2013).

3. Further, the Hon'ble M.P. High court has vide an interim order dated 26-11-2014 restricted the Income Tax Authority from passing final order on the return filed by the assessee till the final disposal of the said writ petition.

4. Keeping in mind the aforesaid interim order of the Hon'ble Madhya Pradesh High Court, the AO assessed the return of the assessee at Rs. 22,30,02,090/-. Being aggrieved, the assessee agitated the said assessment by way of an appeal before the Ld. CIT(A) who, vide order dated 23-03-2018, dismissed the appeal of the assessee as it did not have the approval u/s. 10(23C)(vi).

5. Being aggrieved with the order of the Ld. CIT (A), the assessee preferred second appeal before the Tribunal, challenging his order on the following ground:

- (i) The Ld. CIT (A) –I, Jabalpur Camp at Bilaspur (C.G.) erred in law as well as in facts confirming the additions/dismissing the appeal made by the appellant applicant for allowing of additions made by A.C.I.T.(Exemptions), Circle-Raipur (C.G.) in which against returned income by the assessee Total Income was computed at Rs. 22,30,02,090/-. That assessment order passed is liable to be cancelled on the merits of the case and on basis of actual educational and charitable activities of University.

6. We have perused contents of the Para No. 3.3 of the Assessment order dated 30-03-2016 passed by the Assessment Officer, which reads as under:

“ Considering the above facts, the assessee is treated as Artificial Juridical person being not eligible for exemption under s. 10(23C)(vi) or exempt under s. 11 and 12 of the Act. The assessment proceedings for the year under consideration i.e. A.Y. 2013-14 is being completed without waiting for the judgment of the Hon’ble High Court and ITAT as the present case is getting time barred by limitation on 31-03-2016. And the present order will be modified in case the Hon’ble High Court delivers the judgment granting the exemption u/s 10(23C) (vi) of the Act or the Hon’ble ITAT delivers judgment granting registration u/s 12AA of the Act”.

7. The AO has himself clarified that the assessment order will be modified in case the Hon’ble High Court grants exemption u/s 10(23C)(vi) of the Act to the assessee. Thus, the assessment order dated 30/03/2016 was not a final order. It was a conditional one subject to the outcome of the matter pending before the Hon’ble High Court. Hence, we find no infirmity in the said assessment order, which was not a final order.

8. During the hearing, the assessee has invited our attention to the fact that the Hon’ble High Court of Madhya Pradesh has vide order dated 08-08-2019 quashed the order of the CIT(Exemptions) dated 30-10-2013. The order of the Hon’ble Madhya Pradesh High Court dated 08-08-2019 passed in the W.P. No. 21193 / 2013 states as follows:

“ In view of the foregoing, the order impugned Annexure P/6 dated 30-10-2013 is hereby quashed. This petition is disposed of with a direction that for the relevant financial/assessment year, the petitioner shall submit a representation within two weeks from today to the competent authority which shall be considered and decided by such authority observing the guidelines issued in the case of Queen’s Educational Society (supra) within a period of three months”.

9. The Ld. CIT (Exemptions), Bhopal has vide letter no. ITBA/COM/F/17/2019-20/1019892777(1) dated 07-11-2019, in compliance to the aforesaid

order of the Hon'ble Madhya Pradesh High Court, granted approval u/s.10(23C)(vi) to the assessee-appellant with effect from assessment year 2012-13.

10. The Ld. AR submitted before us that the Department is yet to act on the application of the assessee-appellant for modification of the assessment order till date and, therefore, urged us for a direction to the Revenue for early modification of the concerned assessment order for AY 2013-14. The Ld. DR expressed no objection to the prayer of the Ld. AR.

11. The matter, in our view, already stands settled. The assessee's application dated nil, enclosing along with the relevant documents, submitted on 10/03/2021 (PB pgs. 28-31) is, as informed, outstanding to date. This is unfortunate. The AO is bound to give effect to the order of the ld.CIT (E) granting approval under s. 10(23C)(vi) to the assessee with effect from AY 2012-13. We, accordingly, direct him to do so.

12. We dispose the matter accordingly.

Order Pronounced in open Court on April 22, 2022.

Sd/-
(Sanjay Arora)
Accountant Member

sd/-
(Manomohan Das)
Judicial Member

Dated: 22/04/2022

vr/-

Copy to:

1. The Appellant - Maharishi Mahesh Yogi Vedic Vishwavidyalaya, Karondi, Umaria
2. The Respondent – ACIT (Exemption), Circle-Raipur (CG)
3. The Pr.CIT, Bilaspur.
4. The CIT(A)-1, Jabalpur.
5. The CIT-D.R., ITAT, Jablapur
6. Guard file.

By order

(VUKKEM RAMBABU)
Sr. Private Secretary,
ITAT, Jabalpur.