

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**

**BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**  
**AND**  
**SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

*(Conducted through Virtual Court)*

**ITA No.920/Ind/2018**  
**Assessment Year: 2014-15**

M/s. National Law Institute University 1,NLIU, Admin Block Kerwa Dam Road Bhopal	<b><u>बनाम</u></b> <b><u>/Vs.</u></b>	DCIT(Exemption)  Bhopal
(Appellant / Assessee)		(Respondent/ Revenue)
<b>PAN: AAAJN 0534 C</b>		
Assessee by	Shri Ashish Goyal & N.D. Patwa, ARs	
Revenue by	Ms. Simiran Bhullar, CIT-DR	
Date of Hearing	26.05.2022	
Date of Pronouncement	28.06.2022	

**आदेश / O R D E R**

**Per B.M. Biyani, A.M.:**

1. This appeal filed by the assessee is directed against the order dated 10.10.2018 of learned Commissioner of Income-Tax (Appeals)-2, [**Ld. CIT(A)**], Bhopal, which in turn arises out of the rectification-order dated 05.10.2017 passed by the learned DCIT, (Exemption), Bhopal [**Ld. AO**] u/s 154 of the Income-tax Act, 1961 [**the Act**] for Assessment-Year 2014-15.

2. The assessee is a law university established through Rashtriya Vidhi Sansthan Vishwavidhyalaya Adhiniyam, 1997. The assessee claims to be eligible for exemption u/s 10(23C)(iiiab) and the amount of such exemption for the year under consideration is stated to be Rs. 11,91,53,786/-. Accordingly, the assessee filed its Return of Income declaring a total income of Rs. NIL, after claiming exemption of Rs. 11,91,53,786/-. The return was processed and an intimation u/s 143(1) was issued to the assessee wherein the exemption of Rs. 11,91,53,786/- was denied. Subsequently on 25.05.2017, the assessee filed an application u/s 154 of the Act seeking rectification of the aforesaid intimation u/s 143(1) so as to allow exemption of Rs. 11,91,53,786/-. The Ld. AO, however, rejected the assessee's application. Against this rejection by Ld. AO, the assessee filed appeal to Ld. CIT(A). The Ld. CIT(A), however, dismissed appeal and did not grant any relief. Aggrieved by this order of Ld. CIT(A), the assessee has filed this appeal and now before us.

3. The assessee has raised following grounds:

**“1. That the Ld. CIT(A) erred in facts and law in sustaining the addition, whereas, the issue whether the appellant eligible u/s 10(23C) was debatable and therefore, same could not be considered u/s 143(1), thus, there was a mistake apparent on record in denying the claim u/s 143(1) and said mistake should have been rectified u/s 154.**

**2. That the Ld. CIT(A) erred in facts and law by not considering the submission filed and holding that the assessee was not 'existing solely for educational purposes as required u/s 10(23C)(iiiab) and therefore it was not existing for benefit of public at large.**

**3. In any case and without prejudice, demand of Rs. 5,23,25,840/- is wrong and untenable and shall be deleted.”**

4. In Ground No. 1 the assessee has claimed that the Ld. CIT(A) erred in facts and law in sustaining the addition, whereas the issue whether the appellant is eligible u/s 10(23C) was debatable and therefore, same could not

be considered u/s 143(1), thus, there was a mistake apparent on record in denying the claim u/s 143(1) and said mistake should have been rectified u/s 154.

5. Ld. AR submitted that the assessee has furnished return of income in the prescribed Form ITR-7, a copy of which is placed at Page No. 7 to 21 of the Paper-Book. Ld. AR submitted that while furnishing this ITR-7, the assessee did not find any space / column for reporting of exemption u/s 10(23C)(iiiab) for which the assessee is entitled to. Hence the assessee filled following figures in the said ITR-7, which is quite evident from Page No. 9 and 10 of the Paper-Book reproduced below:

**“B-TI-STATEMENT OF INCOME FOR THE PERIOD ENDED ON 31<sup>ST</sup> MARCH 2014:**

<b>4</b>	<b>Income from other sources (as per item no. 5 of Schedule OS)</b>	<b>119153786</b>
<b>9(i)</b>	<b>Amount applied to charitable purposes in India during the previous year – Revenue Account</b>	<b>80330983</b>
<b>12</b>	<b>Total</b>	<b>38822803</b>
<b>13</b>	<b>Amount of income exempt under any clause of section 10, to the extent that is included in 12 above</b>	<b>38822803</b>
<b>14</b>	<b>Amount eligible for exemption under section 10(21), 10(22B), 10(23A), 10(23B), 10(23C)(iv), 10(23C)(v), 10(23C)(vi), 10(23C)(via)</b>	<b>0</b>
<b>15</b>	<b>Amount eligible for exemption under section 10(23C)(iiad), 10(23C)(iiiae), 10(24), 10(46), 10(47)</b>	<b>0</b>
<b>16</b>	<b>Amount eligible for exemption under any clause, other than those at 14 and 15, of section 10</b>	<b>38822803</b>

Ld. AR submitted that since there was no specific space / column for reporting of exemption u/s 10(23C)(iiiab), the assessee mentioned a sum of

Rs. 8,03,30,983/- as application for charitable purposes against entry No. 9(i) and Rs. 3,88,22,803/- against entry No. 16, the aggregate of these two sums come to Rs. 11,91,53,786/-. According to Ld. AR, the amount of Rs. 8,03,30,983/- mentioned against entry No. 9(i) is a factual amount spent by the assessee for its purposes and the remaining amount of Rs. 3,88,22,803/- was mentioned against not only against entry no. 13 titled “Amount of income exempt under any clause of section 10, to the extent that is included in 12 above” but also against entry no. 16 titled “Amount eligible for exemption under any clause, other than those at 14 and 15, of section 10”. Ld. AR submitted that entry No. 14 is titled “Amount eligible for exemption under section 10(23C)(iiiad), 10(23C)(iii ae), 10(24), 10(46), 10(47)” and entry no. 15 is titled “Amount eligible for exemption under section 10(23C)(iiiad), 10(23C)(iii ae), 10(24), 10(46), 10(47)”. These entry no. 14 and 15 do not cover exemption u/s 10(23C)(iiiab). Hence the assessee was left with only one choice i.e. to report exemption against residual entry no. 16. Ld. AR submitted that since there was no clarity, the assessee thought it better to report a sum of Rs. 8,03,30,983/- as application for charitable purposes against entry No. 9(i) which is a factual amount and Rs. 3,88,22,803/- against entry No. 16 being remaining amount out of Rs. 11,91,53,786/-. Ld. AR submitted that had there been a separate space/column for reporting of exemption u/s 10(23C)(iiiab), the assessee would have easily reported therein and there would not have been any problem at the time of assessment.

6. Ld. AR also made a strong submission of scope of section 143(1) invoked by the Ld. AO. He submitted that the Ld. AO has disallowed the exemption claimed by the assessee while processing intimation u/s 143(1) but this approach itself is not legal because the issue of exemption u/s 10(23C)(iiiab) or 10(23C)(iiiad) is a debatable issue and cannot be dealt with in the proceedings of section 143(1). To support this proposition, the Ld. AR placed heavy reliance on the decision of this Bench itself in **M/s Rajiv Gandhi Proud yogiki Vishwavidyalaya, Bhopal ITA No. 324 & 325/Ind/2018, ITAT, Indore:**

**“13. The Revenue has not rebutted the fact that the assessee had made claim u/s 10 as well as under section 10 in column no.13 in the return of income and also made the claim u/s 10(23C)(iiiad) as per column 15 of the return. It is the contention of the assessee that no column is provided separately for claiming exemption u/s 10(23C)(iiiab). Therefore, the Assessing Authority ought to, have accepted the claim as made in column no. 13 of the return. After considering the totality of the facts, we are of the view that the issue of claim of exemption by the assessee whether it falls under the category u/s 10(23C)(iiiab) or under section 10(23C)(iiiad) is debatable. As per Section 10(23C)(iiiab), exemption is available if any university or other educational institution existing solely for educational purposes and not for the purpose of profit and which is wholly or substantially financed by the Government. It is not in dispute that the assessee University is established by the Government of Madhya Pradesh. Nothing is on record suggesting that the assessee is not existing for educational purposes. The issue whether contention of the assessee that it is solely existing for educational purpose and the Government has financed it requires verification by conducting detailed enquiry and this can be done by mere stating adjustments u/s 143(1) of the Act, which, thus, can be done only by way of scrutiny assessment. We, therefore, respectfully following the decision of Hon'ble Jurisdictional High Court in the case of M/s. Bharat Oman Refineries Limited, Mumbai vs. ITO, Bhopal in I.T.A.No. 16/2001 (M.P.), hold that the issue being debatable, authorities below ought to have made the detailed scrutiny as provided u/s 143(3) of the Act. Accordingly, the ground nos. 1 to 5 of the assessee's appeal are allowed.”**

7. We observe that the facts and law involved in the issue before us are identical to the facts and law involved in the above decision of **M/s Rajiv Gandhi Proudयोगिकी विश्वविद्यालय, Bhopal (Supra)**. ITA No. 324 &

**325/Ind/2018, ITAT, Indore.** Therefore, following our own decision, we hold that the Ld. AO had committed a mistake in disallowing the exemption of Rs. 11,91,53,786/- claimed by the assessee while acting under section 143(1). We further hold that the order passed by Ld. AO u/s 154 is not sustainable since the Ld. AO has wrongly rejected the request of assessee to rectify the intimation u/s 154 and allow exemption. Hence we quash the rectification-order dated 05.10.2017 passed by Ld. AO. We also direct the Ld. AO to pass a fresh rectification-order and allow the exemption wrongly denied earlier in the intimation u/s 143(1). With this, we allow Ground No. 1 of the assessee.

8. Since we have quashed the rectification-order passed by Ld. AO and directed him to make a fresh rectification by allowing the claim of assessee, other Grounds have become infructuous and do not require adjudication at this stage.

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

Order pronounced as per Rule 34 of I.T.A.T. Rules 1963 on 28.06.2022.

Sd/-  
(MAHAVIR PRASAD)  
JUDICIAL MEMBER

Sd/-  
(B.M. BIYANI)  
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 28.06.2022

Patel/Sr. PS

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

*Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore*

1.	Date of taking dictation	
2.	Date of typing & draft order placed before the Dictating Member	
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	
4.	Date on which the fair order is placed before the Dictating Member for pronouncement	
5.	Date on which the file goes to the Bench Clerk	
6.	Date on which the file goes to the Head Clerk	
7.	Date on which the file goes to the Assistant Registrar for signature on the order	
8.	Date of dispatch of the Order	