

आयकर अपीलिय अधिकरण "ए" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1059/PUN/2018  
निर्धारण वर्ष / Assessment Year : 2005-06

Dy. Commissioner of Income Tax,  
(Exemption) Circle, Pune

.....अपीलार्थी / Appellant

बनाम / V/s.

Mercedez benz Education Academy,  
Plot No. 26, Rajiv Gandhi Infotech Park,  
Phase – I, Hinjewadi, Pune-411057

PAN : AAATM1757A

.....प्रत्यर्थी / Respondent

Assessee by : Shri Kishor B. Phadke  
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 05-07-2022  
घोषणा की तारीख / Date of Pronouncement : 07-07-2022

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the Revenue against the order dated 19-03-2018 passed by the Commissioner of Income Tax (Appeals)-10, Pune [‘CIT(A)'] for assessment year 2005-06.

2. The only issue is to be decided is as to whether the CIT(A) justified in allowing the benefit of exemption u/s. 10(23C)(vi) of the Act.

3. At the outset, we note that in the first round of litigation this Tribunal directed the AO to frame assessment for the year in question (A.Y. 2005-06) afresh treating the assessee as enjoying approval of exemption u/s. 10(23C) of the Act. We note that the Tribunal in the first round of litigation discussed regarding deemed approval u/s. 10(23C) of the Act in Para No. 8 of the order dated 31-05-2011. There is no dispute with regard to the said deemed approval by the ld. DR and also no order brought on record contrary to the finding of Tribunal. The contention of ld. AR is that when the ITAT granted deemed approval entitling the assessee to claim exemption u/s. 10(23C) of the Act for the period therein, the AO has no jurisdiction to go beyond the same and the AO ought to have following the directions of ITAT granted the claim of exemption u/s. 10(23C) of the Act to the assessee. We note that the AO travelled beyond the order of ITAT and held that the assessee is not entitled to claim exemption u/s. 10(23C) of the Act. Having aggrieved, the assessee was before the CIT(A). The CIT(A) discussed the issue in terms of the order of ITAT and held the order of AO was not justified in denying the benefit of exemption u/s. 10(23C)(vi) of the Act vide Para No. 5.3.6 of the impugned order in view of order dated 31-05-2011 passed in the first round of litigation. Therefore, we find no infirmity in the order of CIT(A) and it is justified. Thus, the sole ground raised by the Revenue fails and it is dismissed.

4. In the result, the appeal of Revenue is dismissed.

Order pronounced in the open court on 07<sup>th</sup> July, 2022.

Sd/-  
(R.S. Syal)  
VICE PRESIDENT

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 07<sup>th</sup> July, 2022.  
रवि

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-10, Pune
4. The CIT(Exemption), Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune