

**आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर**  
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR

श्री रविश सूद, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।  
BEFORE SHRI RAVISH SOOD, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं./ITA No.216/RPR/2019  
निर्धारण वर्ष /Assessment Year: 2019-20

Sarswati Sahitya Prachar Samiti 1, Saraswari Vihar Rohnipuram, Behind Ayurvedik College, Raipur Chattisgarh - 492 001	Vs	CIT(Exemptions) Bhopal
<b>PAN No. AAFAS 0997J</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	None
राजस्व की ओर से /Revenue by	:	Smt. Ila M. Parmar, CIT-DR
सुनवाई की तारीख / <b>Date of Hearing</b>	:	21/08/2023
घोषणा की तारीख/ <b>Date of Pronouncement</b>	:	23/08/2023

**आदेश / O R D E R**

**Per Arun Khodpia, AM :**

The present appeal of the assessee is filed against the order passed by the Ld. Commissioner of Income Tax (Exemptions), Bhopal, dated 26.09.2019 u/s 10(23C)(vi) of the Income Tax Act, 1961. The grounds of the appeal raised by the assessee are as under:

*"1. The Appellant Assessee is a AOP and filed the return of its income for the Assessment Year 2018-19 on 22-08-2018 declaring Total Income at Rs 9,40,500/- The assessee filed an application in Form 56D on dated 20/10/2018. The CIT (Exemption), Bhopal has rejected the application filed by the assessee u/s 10(23C)(vi) on 26 September. 2019.*

*2. The CIT (Exemption), Bhopal issued a notice on dated 12/09/2019 for attending at the office on 20.09.2019. The authorized representative of the assessee, Shri Nandan Lai Jain C.A. appear before the ITO of the CIT (Exemption), Bhopal with the required and necessary documents.*

*3. The Ld. A.O had rejected the impugned application without giving any proper and meaningful opportunity of being heard to the appellant.*

*4. The Ld. A.O had rejected the application arbitrarily without giving any proper reason for the rejection by ignoring the important supporting documents submitted by the assessee to prove the charitable activities done by the assessee*

*5. Being aggrieved with the Impugned order u/s 10(23C)(vi) of the Act. Passed by the CIT (Exemption), Bhopal, the appellant preferred an appeal.”*

2. At the very inception of the hearing, it is noticed that there was no representation on behalf of the assessee, whereas Department is represented by Ld. CIT-DR. Since, hearing of the case was fixed nine times before this hearing but it is noticed that most of the time, there was no representation on behalf of the assessee, therefore, we find appropriate to disposed off the mater on its merits.

3. The brief facts of the case are that the assessee society has filed an application in Form No.56D on 20.10.2018 before the Ld. CIT(E), Bhopal. While processing the application, the Ld. CIT(E) in order to ascertain the genuineness of the object and activities of the society has offered an opportunity of being heard to the assessee on 20.09.2019. In response, the Ld. AR of the assessee made a written submission on 20.09.2019. On perusal of the submissions of the assessee, the Ld. CIT(E) observing as under:

*“4. On plain perusal of the objects of the society, it is seen that the society is not carrying out its activities exclusively as an educational institution but is into trading activities. The following infirmities have been noticed.*

- i) The details mentioned in the 3CD report suggests that the activities of the society is Trading, Le, wholesale and retail sales of books and goods.*
- ii) During the year 2018-19, the sales of books and goods have been shown at Rs. 1,34,01,195/-*

- iii) *The objects of the society is found to be not exclusively for the purpose of education, it has various other social and philanthropic objectives as well.*
- iv) *On verification of the documents and audited accounts submitted, it is seen that there is no evidence of the society running any educational institution. Neither any affiliation certificate has been brought on record by the society to claim itself as an educational institution.*
- v) *On perusal of the audited accounts submitted by the society, it is seen that the only income of the society is from trading of books and goods.*

*Thus from the facts enumerated hereinabove, it is seen that the activities of the society is not educational in nature but is of commercial nature. Society has sought exemption u/s 10(23C)(vi) of the Income Tax Act, 1961 which reads as under:*

*"Any income received by any person on behalf of any university or other educational institution existing solely for educational purposes and not for purposes of profit, other than those mentioned in sub-clause (ab) or sub-clause (ad) and which be approved by the prescribed authority shall be exempt."*

*A plain reading of the relevant provisions of Section 10(23C)(vi) suggests that the society claiming exemption under this section should work exclusively for the purpose of education and not for the purpose of profit. In the instant case, it is seen that the society is conducting trading activities which is in contravention of the provisions of Section 2(15) of the Income Tax Act, 1961 which reads as under:*

*"Charitable Purpose included relief of the poor, education, yoga, medical relief, preservation of environment (including water sheds forests and wild life) and preservation of monuments or places or objects of artistic or historic interest and advancement of any other object of general public utility.*

***Trust/institution covered under advancement of any other object of general public utility can do commercial activities upto 20% of its total receipts [proviso to section 2(15).***

*The advancement of any other object of general public utility shall not be charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use of application, or retention, of the income from such activity, unless-*

*(a) Such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility:*

*(b) The aggregate receipts from such activity or activities, during the previous year, do not exceed 20% of the total receipts, of the trust or institution undertaking such activity or activities, for the previous year.*

*From the above, it is clear that the society is not an Educational Institution or University nor running any educational institution. The society is also not carrying out any educational activities except for trading in books and related goods. It may be mentioned that the A.O. has also not recommended the case for registration u/s.10(23CXvi) of the Act, on the ground that the society is not solely existing for education. It is also reported by the A.O. that society is carrying out the work of publication and purchase of books and related item and thereafter selling them mainly to Saraswat Shishu Mandir School. Therefore, the society do not fulfill the criteria of **"Solely and exclusively for educational purpose"**.*

*5. Apart from the above, it is seen that the society had applied for the exemption u/s 10(23c)(vi) on October, 2018 whereas the due date for filing the same was September, 2018. As per 16th proviso to Section 10(23C) which is stated as under*

*"Provided also that in case the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in the first proviso makes an application on or after the 1st day of June 2006 for the purposes of grant of exemption or continuance thereof, such application shall be made on or before the 30 day of September of the relevant assessment from which the exemption is sought."*

*Society was required to file application on or before 30th of September 2018. Hence the application filed by the society is belated."*

*6. Therefore, in view of deficiencies and defects enumerated hereinabove, the application in Form No. 56D received in this office on 20/10/2018 seeking exemption u/s. 10(23C)(vi) by the society is hereby rejected/refused."*

3. Aggrieved by the order of Ld. CIT(E), Bhopal, now the assessee is in appeal before us challenging the decision of the Ld. CIT(E).

4. According to grounds of the assessee, it is alleged that the assessee was not being offered a proper opportunities of being heard, therefore, being aggrieved with the impugned order u/s 10(23C)(vi) of the Act is erroneous order and, therefore, the notice to be quashed and assessee may be allowed with further opportunity by setting aside the said order. The

5. Ld. CIT-DR, on the other hand, vehemently supported the order of the Ld. CIT(E), Bhopal and requested to uphold the same.

6. We have heard the rival contention, perused the materials available on record including the order of the Ld. CIT(E) u/s 10(23C)(vi). On perusal of the order of the Ld. CIT(E) rejecting the application of assessee seeking exemption u/s 10(23C)(vi). It is apparent that assessee society had applied for exemption u/s 10(23C)(vi) on October, 2018 whereas the due date for filing the same was 30<sup>th</sup> September, 2018. Therefore, the Ld. CIT(E), Bhopal had rejected the application of the assessee in accordance with provisions of law. The assessee's contention arising from its ground that proper opportunity of being heard was not granted to it, cannot be subscribed to, since the application of the assessee was not within the stipulated date prescribed under the extant law. We, therefore, finding the contention of the assessee devoid of any merit, concurring the finding of the Ld. CIT(E) being with correct application of law, therefore, did not see any reason to interfere with the same, uphold the same. Consequently, the order of the Ld. CIT(E) which is challenged by the assessee in the present appeal stands sustained.

7. In the result, appeal of the assessee stands dismissed.

Order pronounced in the court on 23/08/2023.

Sd/-

**(RAVISH SOOD)**

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

**(ARUN KHODPIA)**

लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated 23/08/2023

*Pramod Kumar, Sr. PS (on tour)*

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

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

**(Assistant Registrar)**

आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur

