

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER**  
**AND**  
**SHRIB.M. BIYANI, ACCOUNTANT MEMBER**

**ITA No.345/Ind/2023**  
**Assessment Year: 2017-18**

M/s. People University, People University Building, People Campur Bhanpur, Bhopal	<b><u>बनाम/</u></b> Vs.	Commissioner of Income- tax (Exemption), Bhopal
(Assessee/Appellant)		(Revenue / Respondent)
<b>PAN: AAAJP1220B</b>		
Assessee by	Shri Sumit Nema, Sr. Advocate, Shri Gagan Tiwari and Shri Arun Dwivedi, ARs	
Revenue by	Ms. Simran Bhullar, CIT DR	
Date of Hearing	14.02.2024	
Date of Pronouncement	15.02.2024	

**आदेश/O R D E R**

**Per Vijay Pal Rao, JM:**

This appeal by the assessee is directed against the order dated 7<sup>th</sup> March, 2023, of Ld. Commissioner of Income-tax (Exemption) passed u/s 10(23C)(vi) of the Income-tax Act, 1961. There is a delay of 129 days in filing the present appeal. The assessee has filed an application for condonation of delay alongwith the affidavit of Counsel of the assessee. The Ld. Counsel for the assessee has submitted that the impugned order was communicated to

the assessee through e-mail and which was forwarded to Shri Gagan Tiwari, Advocate, the counsel of the assessee, on 4<sup>th</sup> June, 2023. A copy of the e-mail message is filed alongwith the application. The Ld. Senior Counsel has further submitted that due to the summer vacation of the Hon'ble High Court, the counsel was not immediately able to take a print out of the said order received in e-mail and thereafter on resumption of the regular working days, the order was down loaded and print out is taken. However, due to inadvertent and bona fide mistake, the said order was mis-placed causing the delay in filing the present appeal. Thus, there is a lapse on the part of the counsel of the assessee, which has caused the delay in filing the present appeal. The Ld. Senior Counsel has pleaded that delay in filing the present appeal is neither intentional nor deliberate, but due to the circumstances, which were beyond the control of the assessee and, therefore, the delay may be condoned and the appeal of the assessee be adjudicated on merit.

2. On the other hand, the Ld. Departmental Representative has vehemently objected to the condonation of delay and submitted that the assessee has not explained sufficient cause for delay of more than 4 months and shifting the blame on the counsel of the assessee.

3. We have considered the rival contention as well as the contents of the application for condonation of delay and affidavit of the advocate of the assessee. Shri Gagan Tiwari, Advocate, stated in the affidavit that the reasons explained in the application are true and correct as due to inadvertent and lapse on his part, the appeal could not be filed within the

period of limitation. The assessee has explained the events and reasons causing the delay of 129 days alongwith relevant record of e-mail sent to the counsel, much before the appeal was filed. Therefore, in the facts and circumstances of the case, when the delay is caused due to inadvertent and bona fide mistake on the part of the counsel of the assessee, we are satisfied that the assessee was having sufficient reason for not filing the present appeal within the period of limitation. Accordingly, in view of the judgement of the Hon'ble Supreme Court in the case Collector Land Acquisition vs. MST. Katiji & Others, 167 ITR 471, the delay in filing the present appeal is condoned.

4. The assessee has raised following grounds of appeal :-

14

**GROUNDS OF APPEAL**

- A. The order dated 07/03/2023 of the learned CIT (Exemptions) is arbitrary, preposterous, and capricious insofar as the orders suffers from meaningful application of mind ignoring the plethora of information provided to him.**
- B. That the impugned order is passed in an illegal manner and without providing proper opportunity of hearing, thus the impugned order is passed in violation of principle of natural justice.**
- C. That on facts and the circumstances of the case and the provisions of law, rejecting the application of the applicant University for grant of registration under section 10(23C) (vi) of the Income-tax Act, 1961 is incorrect and unjustified.**
- D. The learned CIT (Exemptions) raised as many as 12 queries with a view to examine the claim for exemption without looking into their relevance to the facts of the case and without looking into the fact that earlier rejection orders dated 31/03/2014 & 31/03/2015 are already quashed by the Hon'ble High Court in W.P No. 12193/2015. thus the order suffers from proper application**



15

**of mind and the application has been rejected on untenable technical ground and not on merit.**

**E. That the Ld. CIT has rejected the Assessee University's Application u/s 10 (23C) (vi) of the Act by placing reliance on earlier rejection order dated 31/03/2014 & 31/03/2015 without looking into the fact that earlier rejection order has already been quashed by the Hon'ble High Court in W.P No. 12193/2015. Thus the reliance on earlier rejection order is per se and illegal.**

**F. The learned CIT (Exemptions) has raised allegation which are insignificant and are not germane to reaching a conclusion of approval of registration u/s 10 (23C) (vi) of the Act.**

**G. The learned CIT (Exemptions) clearly exhibits his inability to examine the factum of the existence of the applicant for the purposes of education and not for profit as he has been asking such information which is wholly irrelevant and redundant and hastened to reject the application on the ground that the applicant has failed to provide such information though all the relevant information as mandated under rule 2CA of the Income-tax Rules on form No. 56D which is quite exhaustive had been provided.**

**H. There is no finding of the learned CIT (Exemptions) that the applicant has not provided any of the information as stipulated in form No. 56D under rule 2CA of the Income-tax Rules, 1962 and he could not legally travel beyond the domain of enquiry as envisaged in rule 2CA and reject the application of the applicant on flimsy and irrelevant grounds.**

**I. The learned CIT (Exemptions) gave no opportunity to the applicant to provide further any such information which**



16

**he deemed was still required for him to reach a decision as to whether the applicant exists solely for education purposes and hastily rejected the application. Such order passed in haste gets vitiated and is not tenable in law.**

**J. That the Ld. CIT Exemption has failed to considered that :-**

- ✓ the Appellant university is also approved by the u/s 2 (f) of the UGC Act, 1956
- ✓ the university is formed 'solely' for educational purposes.
- ✓ That for achieving objects, the university is presently running 9 educational institutions and one research Centre as its Constituent units
- ✓ Appellant is 'solely' engaged in education and educational activities, and is not engage in any activity of profit, further Appellant does not have any object which are unrelated to education.
- ✓ That the objective of the Appellant is not profit-oriented, also the surplus is generated only in the course of providing education or educational activities.
- ✓ The profit generated / earned is 'incidentally' and same is while imparting education

**K. That the Ld. CIT (E) has relied on para 76 of judgement of Hon'ble Supreme Court in case of New nobel educational society v. Chief Commissioner of Income tax [2022] 143 taxmann.com 276 (SC) but has failed to considered other relevant para of the very same judgement.**



5. The assessee university was incorporated on 4<sup>th</sup> May, 2011, as per Madhya Pradesh Niji Vishwavidyalay (Sthapna Aavam Sanchalan) Adhiniyam, 2007. The assessee University also approved u/s 2(f) of the UGC Act, 1956. The assessee had earlier filed applications in Form No. 10AB for registration/approval u/s 10(23C)(vi) for the years 2012-13 and 2013-14, which were rejected by CIT(E) vide orders dated. 31.03.2014 and 31.03.2015 respectively. The Ld. Counsel submitted that the assessee has challenged the earlier order dated 31<sup>st</sup> March, 2014, and 31<sup>st</sup> March, 2015, in the Writ Petition 12193 of 2015 before Hon'ble High Court of Madhya Pradesh at Jabalpur. The Hon'ble High Court vide order dated 27<sup>th</sup> July, 2016, set-aside the matter to the record of the CIT (Exemption) for re-consideration. He has pointed out that while passing the impugned order, the CIT(E) has referred to earlier rejected orders. Thus, the Ld. Counsel has urged that when the earlier orders have been set-aside by the Hon'ble High Court for re-consideration, it will be appropriate to set-aside this matter to the record of the CIT(Exemption) for re-consideration as per the outcome of the earlier set-aside proceedings.

6. On the other hand, the Ld. CIT Departmental Representative relied upon the impugned order of the CIT (Exemption) and submitted that the Ld. Commissioner has pointed out various irregularities and non-compliances and, therefore, the assessee is not found eligible for approval u/s 10(23C)(vi) of the Act. She has relied upon the impugned order of the CIT (Exemption).

7. We have considered the rival submissions as well as material on record. The application of the assessee for approval u/s 10(23C)(vi) has been rejected vide impugned order due to various discrepancies noted by the CIT (Exemption) as the same were already taken in to consideration while passing the earlier orders dated 31<sup>st</sup> March, 2014, and 31<sup>st</sup> March, 2015. The CIT (Exemption) has specifically asked the assessee about the status of the earlier application rejected vide order dated 31<sup>st</sup> March, 2014, and 31<sup>st</sup> March, 2015, and to provide complete details of all cases in any Court decided or pending relating to the earlier order, but while passing the impugned order, the CIT (Exemption) has not taken into consideration the order of the Hon'ble Jurisdictional High Court dated 27.07.2016. Further, we note that at page nos. 7 & 8 of the impugned order, the CIT (Exemption) has remarked that the application of the assessee was earlier rejected on various grounds and one of the grounds as per earlier rejection order is same as given in the present order. The CIT (Exemption) has also noted that at the time of earlier rejection order, various discrepancies were found and it was held that the University is not existed solely for the purpose of education. Thus, it is clear that the impugned order passed by the Ld. CIT(E) is on the similar line as the earlier order dated 31<sup>st</sup> March, 2014, and 31<sup>st</sup> March, 2015, which were set-aside by the Hon'ble Jurisdictional High Court for re-consideration by the CIT(Exemption) vide order dated 27.07.2016, as under :-

*" That apart, in para 25 also certain analyses have been made with observations regarding right of an assessee to be considered. The Hon'ble Supreme Court in this case has remanded the matter back to the Assessing Officer for reconsideration, keeping in view the same we deem it appropriate to remand the matter back to the Principal Chief Commissioner Income Tax, Aaykar Bhawan, Hoshangabad Road, Bhopal , for reconsideration, accordingly, on the assessee filing a certified copy of this order along with a copy of the order passed in the case of Queen's Educational Society (supra). The Chief Commissioner shall take note of the principle laid down by the Supreme Court as indicated hereinabove and after considering the provisions of sub section 1(iii) of Section 10(23C) and the proviso thereto shall take a decision in the matter.*

*We make it clear that we have not expressed any opinion on the merits of the claim and it is exclusively for the Chief Commissioner to take a decision in the matter. "*

8. Accordingly, in view of the decision of Hon'ble Jurisdictional High Court, the impugned order of the Commissioner of Income-tax (Exemption) is set-aside and the matter is remanded to the record of the CIT(Exemption) for consideration of the same in the light of the order of the Hon'ble

Jurisdictional High Court. Needless to, say that the assessee be given an appropriate opportunity of hearing before passing the fresh order.

9. Resultantly, the appeal of the assessee is allowed for statistical purposes.

*Order pronounced in the open court on 15.02.2024.*

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

Sd/-  
(VIJAY PAL RAO)  
JUDICIAL MEMBER

**Indore**

दिनांक/Dated :15.02.2024.

CPU/Sr. PS

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

*By order*

*Assistant Registrar*

*M/s. People University, Bhopal vs. CIT (Exemption), Bhopal*  
*ITA No.345/Ind/2023*  
*Assessment year 2017-18*

*Income Tax Appellate Tribunal*  
*Indore Bench, Indore*