



**।आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणेमें।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**PUNE BENCHES "A" :: PUNE**

**BEFORE MS.ASTHA CHANDRA, JUDICIAL**  
**MEMBER, AND**  
**DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.1013/PUN/2024**

**निर्धारण वर्ष / Assessment Year: N.A.**

Jawahar Medical Foundation, 1 Hutatma Shirish Kumar Nagar, Sari Road, Morane, Dhule – 424001. PAN: AAATJ5161B	V s	The Commissioner of Income Tax (Exemption), Pune.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri Mahavir Omprakash Jain – AR
Revenue by	Shri Mrityunjoy Burnwal – CIT(DR)
Date of hearing	11/09/2024
Date of pronouncement	12/09/2024

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This appeal filed by the Assessee is against the order of Id.Commissioner of Income Tax(Exemption), Pune dated 18.03.2024 rejecting assessee's application for approval u/sec.10(23C) of the Act. The assessee has raised the following grounds of appeal :

“1. The order passed u/s. 10(23C)(vi) of the Act is bad in law, since it is passed without following the principle of natural justice. The order of rejection may therefore kindly be set aside.

2. The Ld. CIT erred in passing the ex-parte order without waiting for assessee to file the submission even when ample time was available with him to pass the order till 31.03.2024.

3. The Ld. CIT erred in completing the proceedings in hurried manner without appreciating that the appellant has sought an additional time to file the submission. The appellant could not file the submission in time, as it was given only 4 days' time to submit reply.

4. The Ld. CIT erred in not granting approval u/s. 10(23C)(vi) to the appellant trust even though appellant has satisfied all the terms & conditions prescribed under the Act.

5. The Ld. CIT failed to appreciate that appellant trust was solely engaged into educational & allied activities and therefore, the approval u/s. 10(23C)(vi) ought to have been granted to the appellant trust.

6. The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.”

**Submission of ld.AR :**

2. The ld.AR for the assessee submitted a paper book. The ld.AR submitted that ld.CIT(E) had issued notice dated 06.11.2023 and assessee filed elaborate reply on 17.11.2023. Then, ld.CIT(E)

issued another notice dated 11.03.2024 asking assessee to file certain details on or before 15.03.2024. Ld.AR submitted that since the time granted was only three days, assessee filed an adjournment petition which is at page no.18 of the paper book. However, ld.CIT(A) rejected the assessee's application for approval u/sec.10(23C) on the ground that assessee has not complied and not filed required evidence. Ld.AR submitted that assessee had filed an elaborate submission in response to the first notice dated 06.11.2023 which is at page no.4 to 15 of the paper book. Ld.AR took us through the submission dated 17.11.2023 filed before ld.CIT(E). Ld.AR explained that assessee is running Medical College, Nursing College, Dental College, Physiotherapy College; therefore, assessee fulfills condition of section 10(23C) of the Act. Ld.AR pleaded that the findings given by ld.CIT(E) that assessee had not filed details is incorrect. Ld.AR submitted that ld.CIT(E)'s order may kindly be set-aside with the direction to verify the submissions filed by the assessee.

**Submission of ld.DR :**

3. The ld.DR for the Revenue invited our attention to the paper book to demonstrate that copy of trust deed has not been filed.

Ld.DR submitted that as per para 2.2 of the ld.CIT(E)'s order, certain objects of the assessee are not solely for the educational purpose. Ld.DR relied on the order of ld.CIT(E).

**Findings & Analysis :**

4. We have heard both the parties and perused the records. It is a fact that ld.CIT(E) vide notice dated 11.03.2024 had asked assessee to submit certain specific details on or before 15.03.2024. Thus, ld.CIT(E) had granted time of only three days. Vide notice dated 11.03.2024, ld.CIT(E) had asked assessee following details :

*“(ii) Further it is seen from the trust deed that some of the objects are not aimed of solely for education purpose i.e. object number 3(b), 3(d), 3(e), 3(f) & 3(g). Please furnish your explanation.”*

4.1 We specifically asked ld.AR regarding these clauses referred by ld.CIT(E). Ld.AR submitted that these are ancillary clauses like running hospital which is mandatory a medical college. However, ld.AR has not filed copy of the trust deed before us. It is also a fact that assessee had filed an adjournment application before ld.CIT(E) on 15.03.2024. However, without granting any further time as requested by assessee, ld.CIT(E) passed the order on 18.03.2024. In these facts and circumstances of the case, we agree with the assessee that principle of natural justice has been violated.

Therefore, we set-aside the order of the ld.CIT(E) to ld.CIT(E) for de-novo adjudication. The ld.CIT(E) shall provide opportunity to the assessee. The assessee shall file all relevant documents before the ld.CIT(E). Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 12<sup>th</sup> September, 2024.

**Sd/-**  
**(MS.ASTHA CHANDRA)**  
**JUDICIAL MEMBE**

**Sd/-**  
**(DR. DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 12<sup>th</sup> Sep, 2024/ SGR\*

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.