

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH, COCHIN**

**Before Shri Inturi Rama Rao, Accountant Member  
&  
Shri Prakash Chand Yadav, Judicial Member**

ITA No.74/Coch/2024 : Asst.Year 2023-2024

APJ Abdul Kalam Technological University, MBA Building CET Campus, Engineering College PO Trivandrum – 695 016. <b>PAN : AAAGK0163M.</b>	v.	The Commissioner of Income-tax (Exemption) Trivandrum.
(Appellant)		(Respondent)

Appellant by :Sri.Sreeram Sekar, CA  
Respondent by :Sri.Sanjit Kumar Das, CIT-DR

<b>Date of Hearing : 19.11.2024</b>	<b>Date of Pronouncement : 29.11.2024</b>
-------------------------------------	---

**ORDER**

**Per Prakash Chand Yadav, JM :**

The present appeal of the assessee is arising from the order of the learned Pr.Commissioner of Income-tax (Exemption) dated 30<sup>th</sup>November, 2023 and relates to the denial of registration u/s.10(23C) of the Income-tax Act, 1961.

2. The brief facts of the case are that the assessee is a society engaged in the dissemination of Education and other related activities such as granting of scholarships to meritorious students etc. The assessee has also been notified as a University by the Act No.17 of 2015 of the State Government. It has applied for the registration of 10(23C) vide application dated 1st May, 2023. Thereafter, the CIT(E) called

for the documents from the assessee and observed that the assessee has not applied or accumulated 85% of its income. Thereafter, the CIT(E) had commented upon the accounts of the assessee and had also commented upon certain income and denied the exemption to the assessee.

3. Aggrieved with the order of the CIT(E), the assessee has come up in appeal before us. At the outset the learned Counsel for the assessee had argued that the CIT(E) has incorrectly entered into the accounts of the assessee at the time of grant of registration.

4. The learned Departmental Representative appearing on behalf of the Revenue relied upon the order of the CIT(E).

5. We have heard the rival submissions and perused the material available on record. It is settled position of law that at the time of grant of registration the CIT(E) is not supposed to scrutinize the accounts of the assessee, which exercise has to be done by the Assessing Officer during the course of assessment proceedings. A reference can be made to the decision of Hon'ble Delhi High Court in the case of DIT Vs Ophthalmic Research Education Center reported in 355 ITR 361(Del), wherein Hon'ble Delhi High Court observed as under:-

*“It is evident that, at this stage, the CIT is not to examine the application of income. All that he may examine is whether the application is made in accordance with the requirements of s.12A with r.17A and whether Form No.10A has been properly filled up. He may also see whether the objects of the trust are charitable or not. At this stage, it is not proper to examine the application of income.”*

Therefore, we restore this matter to the file of the CIT(E) for examining the issue afresh in accordance with law.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this 29<sup>th</sup> day of November, 2024.

**Sd/-**  
**(Inturi Rama Rao)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(Prakash Chand Yadav)**  
**JUDICIAL MEMBER**

Cochin; Dated : 29<sup>th</sup> November, 2024.  
Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT, Cochin.
4. The DR, ITAT, Cochin.
5. Guard File.

Asst.Registrar/ITAT, Cochin