

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

(VIRTUAL COURT)

**BEFORE SH. VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

I.T.A. No. 343/Asr/2024

Assessment Year: N.A.

Maharishi Dayanand Education
Society Near BSF Cantt CO MD
College, Hanumangarh Road,
Abohar, Distt. Fazilka

Vs.

Ram Mohan Singh, The CIT
(Exemptions), Chandigarh,

[PAN: AABTM 4558Q]

(Appellant)

(Respondent)

Appellant by : Sh. Sudhir Sehgal & Sh. A.K. Periwal, C.A.
Respondent by : Sh. Sunil Gautam, CIT-DR
Date of Hearing : 03.12.2024
Date of Pronouncement : 09.01.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of the Id. Commissioner of Income Tax (Exemptions), Chandigarh dated 22.09.2020 rejecting an application for seeking approval u/s 10(23C)(vi) of the Income Tax Act, 1961

2. Grounds of appeal taken by the assessee in Form No. 36 are as under:

- “1. That the Ld. CIT(Exemptions), Chandigarh has erred in passing the order u/s 10(23C)(vi) of the Income Tax Act, 1961 vide order, dated 22.09.2020 and dismissing the application of the assessee for grant of approval u/s 10 (23C) (vi) of the Income Tax Act.
2. That the Ld. CIT (Exemptions) has failed to appreciate that the assessee had complied with various questionnaires/details as required from time to time and it is wrong to allege that certain details as mentioned in the order of Ld. CIT (Exemptions) has not been filed by the assessee.
3. That the rejection of application u/s 10(23C)(vi) is uncalled for, since the assessee had submitted all the details as mentioned in para 3 of the order of Ld. CIT(Exemptions) and, thus, the order as passed by the Ld. CIT(Exemptions) for granting approval u/a 10(23C)(vi) is not valid.
4. That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.”

3. **Condonation of delay:-** It is pointed out by the registry that the appeal has been belatedly filed before the Tribunal which is delayed by 1294 days. The assessee has filed an application requesting for condonation of delay, the relevant portion of which are explained as follows:

- “1. The order was passed by the CIT (Exemptions) on 20.09.2020
2. The appeal was to be filed on or before 20.11.2020
3. The appeal filed on 07.06.2024
4. The COVID period to be excluded from 20.11.2020 to 31.05.2022
5. Actual delay 738 days”

An affidavit has been filed by Mr. Tarun Munjal, Adv. of the assessee and also by the Director of the society Mr. Ranveer Partap Asija, and as per the details

contained in sworn affidavit filed, it is seen that the earlier to June, 2018 one Mr. Sakshi Juneja, CA was looking after the taxation work of the above said Society from 2016 to May 2018 and through the primary e-mail address and mobile number registered on the societies profile belongs to the society, the secondary e-mail address and mobile number belongs to C.A. Juneja & Associates, Chartered Accountants, and mobile and the landline number also relates to the Sakshi Juneja, CA. The said profile of the society has not been updated. It is further submitted by him that he has applied in Form No. 56D for grant of exemptions u/s 10(23C)(vi) and in response to such an application, questionnaires were issued by the Id. CIT(E), Chandigarh in response to which replies were submitted on various dates through online portal. The rejection order of Id. CIT(E) dated 22.09.2020 was received through secondary e-mail id, but unfortunately he never intimated the same to the assessee's society because office of the society was non functional during Covid period. Thereafter, he has filed a fresh application in form 56D with CIT(E), Chandigarh on 22.10.2020 and till date no response has been received against such application. He further submitted that on 21.05.2024 he was intimated by the Director of the assessee's societies, regarding outstanding demand for assessment year 2020-21 received through e-mail from the Income Tax Department and on subsequent verification of the portal, he was aware that the order for registration has been passed rejecting the application. Similarly, affidavit has also been filed by the Director of the Society Mr. Ranveer

Pratap Asija who reiterated the fact that he has been informed by the e-mail from the Income Tax Department regarding the outstanding demand for assessment year 2020-21 after which he contacted his counsel Mr. Tarun Munjal and along with him, they have appointed a new counsel to file this appeal before the Tribunal on 07.06.2024. As such, the main contention of the assessee is that the entire delay has occurred due to change in counsel and non receipt of proper notice in the proper e-mail id because of some technical error regarding spelling mistakes in the mail address, and he prays that since there has been no malafide intention or intentional default on the part of the assessee the delay may be condoned and the appeal may please be admitted to be heard on merits.

4. Considering the affidavits filed by the advocate and the Director of the Society and considering the reasons contained in such affidavit, we condone the delay of 738 days (excluding Covid period from 20.11.2020 to 31.05.2022) and while condoning this delay, we also place reliance and draw support from the followings decisions where it has been held that the assessee should not suffer on account of mistake of the counsel and considering the facts stated above, we condone the delay:

- (i) *MANOJ AHUJA (MINOR) & ANR. vs. INSPECTING ASSISTANT COMMISSIONER, reported in 150 ITR 696.*
- (ii) *Gurfateh Films and Sippy Grewal Productions (P) Ltd. Vs CIT, reported in 95 ITR (Trib.) 0456 (Amritsar)*

- (iii) *C.G. PAUL & CO. vs. INCOME TAX OFFICER ITAT, COCHIN BENCH, reported in 52 ITD 276*
- (iv) *INCOME TAX OFFICER vs. MEGHALAYA BONDED WAREHOUSE, I.T.A.T., GAUHATI BENCH, reported in 60 ITD 219.*
- (v) *Judgment of ITAT, Chandigarh Bench, in the case of H.P. Cricket Association in ITA Nos. 110 & III/Chd.2004.*
- (vi) *SUDERSHAN AUTO ft GENERAL FINANCE vs. COMMISSIONER OF INCOME TAX, ITAT, DELHI 'B' BENCH, reported in 60 ITD 177.*

5. The brief facts of the case are that the assessee is a Charitable Society engaged in providing education through its college namely Maharishi Dayanand Education Society and is duly registered under the 'Societies Registration Act, 1860' and registered number 1313 of 2023. The assessee has been consistently allowed exemptions u/s 10(23C)(iiiad) of the Act, as the gross receipts of the society were all along below Rs. one crore. During the year under appeal, the gross receipts exceeded one crore, and the assessee filed an application seeking approval u/s 10(23C)(vi) on 30.09.2019 in Form 56D. The Commissioner (Exemptions) raised questionnaires dated 15.06.2020 against which complete response has been filed by the assessee through e-filing portal. Subsequently other notices were issued from the office of the CIT(E) dated 10.09.2020 seeking response to earlier notice and requested for copy of MOA, bank statements, fees structure, salary details and details of donations. As per the ld. CIT(E), no documents has been filed by the assessee and

as such in absence of the required documents there is no way, the genuineness of the activities of the society can be corroborated with the aims and objectives thereof and as such accordingly approval u/s 10(23C)(vi) was rejected.

6. Now, the assessee is in appeal before the Tribunal on the grounds contained in the Memorandum of Appeal and has categorically submitted that the copy of Memorandum of Association has been filed on 28.07.2020, bank statements filed on 29.07.2020, fees structure details has been filed on 28.07.2020 and salary details are already appearing in audit financial statements which has been filed on 29.06.2020, and details of donation is also apparent from Audited Financial statement filed on 29.06.2020. Therefore, the Id. AR submits that each and every details has been filed which are evident from the documents available in the portal and as such the finding of the Id. CIT(E) regarding allegations of non filing of documents while rejecting the application is not at all correct and against the principles of natural justice. On merits of the case also he relied on the judgment of the Hon'ble jurisdictional Punjab & Haryana High Court in the case of Sanatan Dharam Shiksha Samiti, reported in 19 Taxmann.com 87 and also placed reliance on the judgment of Hon'ble Punjab & Haryana High Court in the case of Pinegrove International Charitable Trust, reported in 327 ITR 73, wherein it has been held as under:

“Section 10(23C)(vi) of the Income Tax Act, 1961 - Educational institutions - Assessment years 2000-01 to 2007-08 - Whether to decide entitlement of an institution for exemption under section 10(23C)(vi), test of predominant object of its activity has to be applied by posing question whether it exists solely for education and not to earn profit and merely because profits have resulted from activity of imparting education would not result in change of character of an institution that it exists solely for educational purpose - Held, yes.”

He further submits that in the instant case, it is clear from the aims and objects as appearing in the Memorandum of Association of the society that the society exists solely for the purposes of education and if properly evaluated, the basic condition of section stands satisfied. As such he humbly prays that the registration of the society may please be directed to be allowed or directed to be granted.

7. Per contra, the Id. DR relied on the order of the Id. CIT(E) and argued that all documents and papers was not filed before the Id. CIT(E) and there might have been also technical glitches in the portal or otherwise and he states that the papers and documents needs to be verified and inquired into to be satisfied regarding the activities of the societies which could not be done due to technical reasons by the Id. CIT(E).

8. We have heard the rival contentions and considered the materials on record including the contents of the paper books filed by the assessee which consists of

Memorandum of Association along with the Rules and Regulation, affiliation certificate by the Punjab University, (Chandigarh) and copy of screenshot of e-filing portal evidences in filing of details before the Id. CIT(E), filing of response with reference to earlier letters, copy of audited accounts and balance-sheet and income expenditure-account for assessment year 2017-18, 2018-19 and 2019-20, guidelines of fees as issued by the Director of state counsel of Educational Research and Training, (Punjab), copy of month-wise and employee wise salary sheet and copies of bank statements maintained by the assessee society. Considering all this materials on record we find it proper and just to remand the matter back to the file of the Id. CIT(E) to examine and verify the documents and papers along with the supporting evidences required to arrive at the conclusion regarding the genuineness of the activities of the society in terms of its aims and objects as contained in the Memorandum of Association.

9. As such, the matter is remanded back to the files of Id. CIT(E) to consider the application for registration u/s 10(23C)(vi) afresh after allowing reasonable opportunity of hearing to the assessee and the assessee is also directed to file all necessary documents before the Id. Commissioner (E) and fully co-operate in the fresh proceedings for disposal of the application as per the provisions of law.

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

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 09.01.2025

Sd/-
(Vikram Singh Yadav)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy

By Order