

IN THE INCOME TAX APPELLATE TRIBUNAL "SMCBENCH", RANCHI

BEFORESHRI GEORGE MATHAN, JM

&

SHRI RATNESH NANDAN SAHAY, AM

(THROUGH HYBRID MODE)

आयकरअपीलसं./ITA No.126/RAN/2023

(निर्धारणवर्ष / Assessment Year :2017-2018)

Rajganj Inter College, PO: Rajganj, Dhanbad-828113	Vs.	ITO, Exemption Ward, Dhanbad
स्थायीलेखासं./PAN No. : AAABR0716Q		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारितीकीओरसे /Assessee by	:	Shri Devesh Poddar, Adv.
राजस्वकीओरसे /Revenue by	:	Shri Khubchand Pandya, Sr.DR
सुनवाईकीतारीख/ Date of Hearing	:	07/05/2025
घोषणाकीतारीख/Date of Pronouncement	:	07/05/2025

आदेश / O R D E R

PerBench:

This is an appeal filed by the assessee against the order dated 28.03.2023 of the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, passed in ITBA/NFAC/S/250/2022-23/1051512419(1) for the assessment year 2017-2018.

2. Shri Devesh Poddar, Advocate appeared on behalf of the assessee. Shri Khubchand Pandya, Sr. DR appeared on behalf of the revenue.

3. It was submitted by the Id. AR that while filing return, the assessee had, by mistake, claimed exemption u/s.10(23C)(iiiad) of the Act in place of section 10(23C)(iiiab) of the Act. It was the submission that consequently the AO had denied the assessee the benefit of exemption as

claimed. It was the submission that even the audit report of the assessee is under the provisions of section 10(23C)(iiiab) of the Act. It was the prayer that the AO may be directed to consider the assessee's claim of exemption u/s.10(23C)(iiiab) of the Act. It was also the prayer that the total receipts of the assessee has been adopted by including the interest income. It was submitted that if the interest income is included then the total amount which has been received by the assessee would be above the prescribed limit for claim of exemption u/s.10(23C)(iiiab) of the Act. It was the submission that the interest income is not to be included has been decided by the ITAT Indore Bench of the Tribunal in the case of DCIT Vs. Sri Vaishnav Polytechnic College passed in ITA No.469/Ind/2018, vide order dated 06.11.2020. It was, thus, the submission that if the interest income is excluded the Government grant would exceed 50% as required for the claim of exemption u/s.10(23C)(iiiab) of the Act.

4. In reply, Id. Sr. DR vehemently supported the orders of the AO and Id. CIT(A).

5. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that even the audit report in the case of the assessee has been prepared u/s.10(23C)(iiiab) of the Act. This being so, the issues in this appeal are restored to the file of AO for readjudication and to consider the assessee's claim for exemption u/s.10(23C)(iiiab) of the Act. The AO shall also take into consideration the decision of the coordinate bench of the Tribunal in the case of Sri Vaishnav Polytechnic College, referred to supra, wherein it has been held

that interest income is not to be included while computing 50% for the purpose of determining the exemption u/s.10(23C)(iiiab) of the Act.

6. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order dictated and pronounced in the open court on 07/05/2025.

Sd/-
(RATNESH NANDAN SAHAY)
लेखासदस्य / ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)
न्यायिकसदस्य / JUDICIAL MEMBER

राँचीRanchi; दिनांक Dated 07/05/2025

Prakash Kumar Mishra, Sr.P.S.

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant-
2. प्रत्यर्थी/ The Respondent-
3. आयकरआयुक्त(अपील) / The CIT(A),
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण,राँची/ DR, ITAT, Ranchi
6. गार्डफाईल / Guard file.

सत्यापितप्रति //True Copy//

आदेशानुसार/BY ORDER,

(Senior Private Secretary)
आयकरअपीलीयअधिकरण, राँची/ ITAT, Ranchi