

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

**BEFORE SHRI UDAYAN DAS GUPTA, JUDICIAL MEMBER
AND SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ **ITA No. 295/ASR/2023**

निर्धारण वर्ष / Assessment Year : 2017-18

Gram Vikas Educational Society, V. Pala Megha, Ferozpur 152002	बनाम	ITO, Exemption Ward, Amritsar
स्थायी लेखा सं./PAN NO: AABTG7217L		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(Hybrid Hearing)

निर्धारिती की ओर से/Assessee by : Sh. P.N. Arora, Advocate

राजस्व की ओर से/ Revenue by : Sh. Manpreet Singh Duggal, Sr.DR

सुनवाई की तारीख/Date of Hearing : 19.03.2025

उदघोषणा की तारीख/Date of Pronouncement : 09.06.2025

आदेश/Order

Per Krinwant Sahay, AM:

Appeal in this case has been filed by the Assessee against the order dated 22.09.2023 passed by Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (NFAC) for A.Y. 2017-18.

2. Grounds of appeal are as under:-

1. *That wither the worthy CIT (A), NFAC was right to levy tax AOP to the amount of the addition of Rs.3,83,740/- (Three lacs eighty three thousands seven hundred and forty only) by ITO, Exemption ward, Amritsar, being surplus amount shown out of the receipt of the Educational Society at maximum rate of tax @30%, if wrong then whole the addition may kindly be deleted by treated the Educational Society as an exemption unit section 10(23C)vi of I.T. Act, 1961.*
2. *That whether the worthy CIT(A), NFAC was right in confirming addition of Rs.25,90,000/- (Twenty five Lacs ninety thousands only) under head corpus fund created in the Adarsh School Allotted by Punjab Government for providing the better administration and facility to the students of Adarsh Schools, if wrong then whole the addition is may kindly be deleted by treated the Educational Society as an exemption unit section 10(23C)vi of I.T. Act, 1961.*
3. *That whether the worthy the Commissioner of Income Tax (A) NFAC was right to treat the educational society as AOP during pendency of Exemption before the CIT (Exemption), Chandigarh whereas Exemption application must be disposed of within six from the date of Exemption application or from the date of order passed by ITAT, Amritsar Bench, Amritsar whereas the ITAT has already back the appeal with remarks "case is remanded by to pass fresh orders on merits," whereas the assessee has not received any orders passed by the CIT(E), Chandigarh neither u/s 10(23C)(vi)/ 12AA/form 56D of the Income Tax Act, 1961 after the orders passed by the ITAT, Amritsar Bench, Amritsar. vide No. ITA/ASR/2019ON 29.11.2019*

and dt.9.10.2019 in appeal filed vide No. ITA No.470//ASR/2018 for passing the fresh orders on the basis of the merit of the case whereas CIT(E), CHD., but said CIT(E), CHD has neither rejected exemption no granted the exemption/ approval (Exemption), with in six month whereas the as the assessee filled the reply query letter issued by the CIT (E), CHD dt. 26.2.20, if wrong the appeal may kindly be accepted.

4. That the Assessee craves to add or amend any grounds of appeal before the appeal disposed off.

3. The facts of the case, as per the written submissions filed by the Counsel, of the Assessee are as under: -

“1. That the Gram Vikas Educational Society, V. Palla Megha, Ferozepur filed an appeal for the Assessment year 2017-18 against the orders passed by the ITO, Exemption Ward, Amritsar after the rejection of Exemption Application filed before CIT(E) Chandigarh being an Educational society filed section 10(23C)(vi) of the Income Tax Act. 1961, whose receipts were exceeded Rs. 1,00,00,000/- (One Crore only) which was being run by the Educational, society.

2. But the assessee had already filed an appeal against the rejection of Exemption application filed u/s 10(23(vi) before the CIT (Exemption) Chandigarh, before the ITAT, Amritsar Bench Amritsar, it is accepted and remanded back for passing the fresh order on the basis of merit vide order dated

29.11.2019 in the appeal No. ITA No. 621/ASR/2019, of the rejection orders passed by CIT (Exemption), Chandigarh.

3. The Educational Society namely The Gram Vikas Educational Society, an application u/s 12AA in form No. 56D but the CIT (Exemption) Chandigarh rejected it on the plea that the society is an Educational Society and having a limited sphere, so it should apply under section 10(23C)(vi) of the Income-tax Act, 1961. As receipt of the society during the Assessment year 2017-18 had exceeded Rs. 1,00,00,000/-.

4. Accordingly, the assessee Gram Vikas Educational Society filed an appeal against the rejection of Exemption application u/s 12AA in Form No. 56-D of the CIT(Exemption) Chandigarh, before the ITAT Amritsar Bench, Amritsar. It was accepted and remanded back on dt. 9.10.2019 in appeal filed vide No. ITA No.470//ASR/2018, to the CIT (Exemption), Chandigarh for passing a fresh order on the basis of merit.

5. Simultaneously, the assessee by obeying the directions of CIT(E). CHD, again filed an Exemption application under section 10(23C) (vi) of the Income Tax Act, 1961 and it was again rejected by the Commissioner of Income Tax (Exemption). The assessee filed an appeal before the ITAT Amritsar Bench Amritsar and this appeal was accepted by the ITAT Amritsar Bench Amritsar on 29.11.2019 in the appeal

filed vide ITA No. 621/ASR/2019. It remanded back to the Commissioner of Income Tax (Exemption) Chandigarh for passing the fresh orders on merits.

6. The assessee filed an appeal for Asst., Year 2017-2018 before CIT(A), NFAC against the orders by the ITO, Exemption ward, Amritsar and the worthy CIT(A), NFAC while passing order u/s 250 has treated the AOP without considering the orders passed by ITAT on 9.10.2019 in appeal filed vide No. ITA No.470//ASR/2018 and on 29.11.2019 in the appeal NO.621/ASR/2019.

7. But Worthy CIT(A), NFAC deleted the addition of Rs. 3,83,740/- which was shown as surplus and was less than 15% of the receipt. The AO levied tax @30% instead of 60% u/s 115BBE, treating it as AOP instead of the Educational Society whereas orders of CIT(E), Chandigarh was still awaited.

8. It also treated the Corpus Funds amounting to Rs.25,90,000/- shown in the balance sheet of Gram Vikas Adarsh Senior Secondary, Daulat Pura. It was allotted by Education department/PSEB to the Educational Society namely Gram Vikas Educational Society, Village Palla Megha, Ferozepur during A.Y. 2017-2018.

9. The worthy CIT(A) NFAC has passed the orders u/s 250 and partially accepted the appeal of the assessee against orders passed by the Assessing Officer, Exemption Ward, Amritsar who has levied the tax as AOP on amount of Rs.3,83,740/-. The corpus funds shown in the balance sheet of Gram Vikas Adarsh Senior Secondary, Daulat Pura of the society amounting to Rs.25,90,000.00 (Rs.3,83,740 plus 25,90,000) Rs.29,73,740.00. He rejected the application of tax @60% under section 115BBE of the Income Tax Act, 1961 and levied the tax @30%, the maximum rate tax treated it as AOP and not Educational Society who claimed exemption u/s 10(23C) (vi) of the Income-tax Act, 1961. Since order of the CIT(E) Chandigarh, was to be passed within Six Month from date of application filed or the remand orders passed by ITAT, Amritsar Bench, Amritsar.

10. From the grounds of appeal, it is seen that the Assessee has taken the ground that whether the worthy Commissioner of Income Tax (A) NFAC was right to treat the educational society as AOP during pendency of application for Exemption before the CIT (Exemption), Chandigarh. Exemption application was to be disposed of within six from the date of Exemption application or from the date of order passed by ITAT, Amritsar Bench, Amritsar where the ITAT has remanded back the appeal with remarks "case is remanded back to pass fresh orders on merits,". The assessee has not received any

orders passed by the CIT(E), Chandigarh u/s 10(23C)(vi)/12AA/form 56D of the Income Tax Act, 1961 after the orders by the ITAT, Amritsar Bench, Amritsar for passing a fresh order on merits. The CIT(E), CHD has neither rejected exemption nor granted the exemption/ approval (Exemption), with-in six months.

11. From these grounds of appeal, it is not clear whether the Assessee has received the order of the Assessing Officer in this case which was remanded back to the file of the Assessing Officer by ITAT, Amritsar. Further the Assessee has claimed that even CIT(E) has not passed order within six months. Since all these documents are not available on record, therefore, we are inclined to send this case back to the Assessing Officer to verify all the claims made by the Assessee in its grounds of appeal and pass the order as per the directions issued by the ITAT, Amritsar earlier.

4. The ld. DR though relied on the order of the ld. CIT(A).

5. We have considered the submissions of both the parties and perused the material available on record. We find that the matter should be remanded back to the AO for fresh adjudication. Therefore, in the interest of justice, the matter is remanded back to the file of the AO to be decided afresh on merit, in accordance with law, on affording due and adequate

opportunity of hearing to the Assessee. The Assessee, no doubt, shall cooperate in the fresh proceedings before the AO. All pleas available under the law shall remain so available to the assessee. Ordered accordingly.

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

Order pronounced on 09.06.2025

Sd/-

(UDAYAN DAS GUPTA)
Judicial Member

“आर.के.”

Sd/-

(KRINWANT SAHAY)
Accountant Member

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायकपंजीकार/ Assistant Registrar