

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC BENCH", RANCHI
BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

(THROUGH HYBRID MODE)

आयकर अपील सं./ITA No.70/RAN/2025

(निर्धारण वर्ष / Assessment Year :2018-2019)

St Patricks Educational Society, Sisai Road, Gumla, Jharkhand-835207	Vs.	ITO, Ward-3(1), Ranchi
स्थायी लेखा सं./PAN No. : AAKAS 7872 B		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by	:	Shri Naveen Dokania, CA
राजस्व की ओर से /Revenue by	:	Shri Khubchand T Pandya, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	26/11/2025
घोषणा की तारीख/Date of Pronouncement	:	26/11/2025

आदेश / O R D E R

This is an appeal filed by the assessee against the order of the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, dated 31.01.2025 for the assessment year 2018-2019.

2. Shri Naveen Dokania, Id.AR represented on behalf of the assessee.

Shri Khubchand T Pandya, Sr. DR appeared on behalf of the revenue.

3. It was submitted that the assessee is running an educational institution. The assessee had claimed exemption u/s.10(23C)(iiiad) of the Act. It was the submission that admittedly the assessee had not filed its return of income within the time provided u/s.139(1) of the Act. The notice u/s.148 of the Act came to be issued on the assessee on 31.03.2022 and the assessee had filed its return of income in response to the said notice, wherein the assessee had claimed exemption u/s.10(23C)(iiiad) of the Act.

It was the submission that the Assessing Officer denied the assessee the benefit of exemption u/s. 10(23C) (iiiad) of the Act on the ground that the return of income has not been filed u/s.139(1) of the Act. It was the submission that the Id CIT(A) had upheld the order of the Assessing Officer.

4. Ld. AR drew my attention to the decision of the Co-ordinate Bench of this Tribunal Jaipur Bench in the case of Institute Management Committee ITI Jhalawar, in ITA No.39 & 41 /JP/2025 for A.Ys. 2013-14 & 2014-15, order dated 05.05.2025, wherein, the Co-ordinate Bench has held as follows:

"11. We have heard the rival contentions and perused the material placed on record. Vide ground no. 1 the assessee challenges the impugned order on its legality and vide ground no. 2 the assessee challenges the impugned order on its merits.

Record reveals that the assessee is a trust / society undertaking Educational activities and falls under the provision of section 10(23C)(iiiad) and even the Id. AO did not dispute that claim of the assessee. For the year under consideration based on the information in possession of revenue Id. AO noted that the assessee had income chargeable to tax has escaped assessment. Therefore, there were reasons to believe that the Assessee has not disclosed fully and truly all material facts necessary for his assessment for that Assessment year. After recording satisfaction "reasons to believe" and obtaining the prior approval of the competent authority, notice u/s 148 of the Act was issued on 24/03/2021 as assessee has received an interest income of Rs.26,94,361/- during the year, however, the assessee has not filed return of income for the year under consideration.

Therefore, an assessee by issuance of notice u/s. 148 was required to file the ITR. In response, the Assessee filed its return of income on 23.04.2021. Thereafter statutory notices were issued to the assessee. Ld. AO noted that the assessee filed a return of income declaring nil income after claiming exemption u/s.10(23C)(iiiad). During the year, the assessee is in receipt of Income from other sources of Rs 28,50,637/- and the same was claimed exempt. By virtue of section 139(4C) every educational institution referred to in sub-clause (ad) or sub-clause (vi) of Section 10(23C) whose total income in respect of which such institutions is assessable, without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax, furnish a return of

such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1) of section 139. In this regard, the assessee was specifically asked to furnish the copy of trust deed and copy of certification of registration u/s 12A and/or 10(23C) and to explain why the claim of exemption should not be denied as they have not filed the return of income within the due date as stipulated u/s.139(1) of the Act. Ld. AO noted that since the assessee is registered u/s. 12AA of the Act w.e.f. 19.02.2019 the benefit of 10(23C(iiiad)) cannot be given and thereby the he disallowed the claim of income not chargeable to tax u/s. 10 was denied.

As the dispute is relates to the provision of section 10(23C)(iiiad) it would be relevant to go through the provision of the Act which reads as under:

(23C) any income received by any person on behalf of—

(i) the Prime Minister's National Relief Fund or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND); or

(ii) the Prime Minister's Fund (Promotion of Folk Art); or

(iii) the Prime Minister's Aid to Students Fund; or

(iiiia) the National Foundation for Communal Harmony; or

(iiiiaa) the Swachh Bharat Kosh, set up by the Central Government; or

(iiiiaaa) the Clean Ganga Fund, set up by the Central Government; or

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(iiiad) any university or other educational institution existing solely for educational purposes and not for purposes of profit if the aggregate annual receipts of the person from such university or universities or educational institution or educational institutions do not exceed five crore rupees; or

As is evident from the above provision and as it was applicable for the year under consideration the limit of aggregate annual receipt for the year under consideration was made applicable was up to Rupee one crore. Now coming to the requirement of filling the return of income by these institution section 139(4C) would be applicable which reads as under:

(4C) Every—

(a) research association referred to in clause (21) of section 10;

(b) news agency referred to in clause (22B) of section 10;

(c) association or institution referred to in clause (23A) of section 10; (ca) person referred to in clause (23AAA) of section 10;

(d) institution referred to in clause (23B) of section 10;

(e) fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in subclause (iiiab) or sub-clause (iiiad) or sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (iiiac) or sub-clause (iii ae) or sub-clause (via) of clause (23C) of section 10;
 (ea) Mutual Fund referred to in clause (23D) of section 10;
 (eb) securitisation trust referred to in clause (23DA) of section 10;
 (eba) Investor Protection Fund referred to in clause (23EC) or clause (23ED) of section 10;
 (ebb) Core Settlement Guarantee Fund referred to in clause (23EE) of section 10;
 (ec) venture capital company or venture capital fund referred to in clause (23FB) of section 10;
 (f) trade union referred to in sub-clause (a) or association referred to in sub-clause (b) of clause (24) of section 10;
 (fa) Board or Authority referred to in clause (29A) of section 10;
 (g) body or authority or Board or Trust or Commission (by whatever name called) referred to in clause (46) of section 10;
 (h) infrastructure debt fund referred to in clause (47) of section 10,

shall, if the total income in respect of which such research association, news agency, association or institution, person or fund or trust or university or other educational institution or any hospital or other medical institution or trade union or body or authority or Board or Trust or Commission or infrastructure debt fund or Mutual Fund or securitisation trust or venture capital company or venture capital fund is assessable, without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).

Thus, the law as applicable to the assessee says that if the receipt exceeds Rupee one crore and income after giving effect to the provision of section 10(23C(iiiad)) the income exceeds the maximum amount which is not chargeable to tax then the present assessee has to file the ITR for the year under consideration.

Our above view is also support from the following judicial precedents

CIT v. Children's Education Society [2013] 34 taxmann.com 285/358 ITR 373 (Karnataka) Section 10(23C) of the Income-tax Act, 1961 - Charitable/religious purpose (Society running institutions for educational purpose) - Assessment year 2005-06 - Whether where assessee- society runs several educational institutions, in terms of section 10(23C)(iii)(ad), income from each educational institution if they are not receiving any aid from government wholly or

substantially in respect of which aggregate annual receipt does not exceed Rs. 1 crore received by assessee, is not included while computing annual total income of assessee - Held, yes [Para 22] [In favour of assessee]

Jat Education Society v. Dy. CIT [2011] 10 taxmann.com 127/47 SOT 35 (Delhi)

Section 10(23)(iiiab) of the Income-tax Act, 1961, r.w.r 2BC of the Income-tax Rules, 1962 - Educational institutions - AYs 2003-04 and 2004-05 - Assessee society was running several educational institutions - In course of assessment, AO found that aggregate of annual gross receipts of three educational institutions run by assessee exceeded monetary limit of Rs. 1.00 crore as prescribed in rule 2BC of 1962 Rules Accordingly, Assessing Officer held that income of those institutions was not exempt under section 10(23C) - Whether aggregate annual receipt below Rs. 1 crore had to be seen for each educational institution separately and for that purpose, annual gross receipts of all three educational institutions could not be considered collectively to be eligible for exemption under section 10(23C)(iiiad) - Held, yes - Whether since each of educational institution was having annual gross receipt of less than Rs. one crore, income of those institutions was exempt from tax - Held, yes

CIT (Exemptions) v. Smt. Shanti Devi Educational Trust [2019] 102 taxmann.com 141/261 Taxman 339/[2018] 409 ITR 522 (Punjab & Haryana) (para 14). obtaining registration under Section 12AA of the Act was not mandatory for claiming exemption under section 10(23C)(iiiad) of the Act. According to this provision, any income received by any person on behalf of any university or other educational institution existing solely for educational purposes and not for the purpose of profit is exempt if the aggregate annual receipt of such university or educational institute does not exceed the amount of annual receipt as may be prescribed". "It is held that, Total income of society running that school or university is not to be considered under that section. Income from interest and FDRs was an additional income of society and cannot be considered to be part of annual receipt of the school. It was held that the assessee was eligible for exemption under section 10(23C)(iiiad) of the Act as annual school receipts did not exceed 1 crore."

Pawan Hans Swami Uma Bharti Mission v. ACIT [2013] 29 taxmann.com 223/140 ITD 429 (Delhi - Trib.)

Section 10(23C) of the Income-tax Act, 1961 - Educational Institutions - Annual receipts - Assessment year 2006-07 - Whether in terms of provisions of section 10(23C)(iiiad), annual receipts of school or university may be taken into consideration and not total income of society running that school or university - Held, yes [Para 8] [In favour of assessee].

Therefore, in the present facts and circumstances of the case and following the judicial precedents cited supra, we are of the considered opinion that the Id.CIT(A) has erred in confirming the denial of exemption u/s. 10(23C)(iiiad) of the Act to the assessee for the impugned assessment year and hence we are setting aside the order of the Id.CIT(A) by allowing the ground no 2 raised by the assessee. “

5. It was the submission that the assessee may be granted the benefit of exemption u/s.10(23C)(iiiad) of the Act.
6. In reply, Id Sr DR submitted that the assessee has not filed the return of income as required u/s.139(1) of the Act, which is also a required u/s.139(4C) of the Act. It was the submission that as the return has not been filed as per the prescribed provision, the assessee was not entitled for exemption u/s.10(23C) of the Act.
7. On a very specific query, as to where it is mentioned that the benefit u/s.10(23C)(iiid) of the Act can be denied for delay in filing the return, Id Sr DR was not able to point out any specific provisions.
8. I have considered the rival submissions. As the issue whether the assessee is entitled to the benefit of exemption u/s.10(23C)(iiiad) of the Act has been held to be allowable though the return has not been filed within the time prescribed u/s.139(4C) of the Act, but has been filed in response to a notice u/s.148 of the Act, and the issue is now squarely covered by the Jaipur Bench of ITAT in the case of Institute Management Committee ITI Jhalawar(supra). This being so, respectfully following the decision of the Co-ordinate Bench in the case of Institute Management Committee ITI Jhalawar(supra), the Assessing Officer is directed to grant the assessee the benefit of exemption u/s.10(23C) of the Act as claimed by the assessee.

9. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 26/11/2025.

Sd/-
(GEORGE MATHAN)
न्यायिक सदस्य / JUDICIAL MEMBER

राँची Ranchi; दिनांक Dated 26/11/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- .
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राँची / DR, ITAT, Ranchi
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, राँची / ITAT, Ranchi