

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : E : NEW DELHI

BEFORE SHRI VIMAL KUMAR, JUDICIAL MEMBER
AND
SMT. RENU JAUHRI, ACCOUNTANT MEMBER

ITAs No.5223 & 5224/Del/2025
Assessment Years : 2010-11 & 2011-12

S.D. Education Society,
SD Model Sr. Secondary School,
Railway Road,
Karnal,
Haryana – 132001.

Vs. ACIT,
Circle,
Karnal

PAN: AABAS5001P

(Appellant)

(Respondent)

Assessee by : Shri Girish Aneja, CA
Revenue by : Ms Ankush Kalra, Sr. DR
Date of Hearing : 18.12.2025
Date of Pronouncement : 07.01.2026

ORDER

PER VIMAL KUMAR, JM:

The applications for condonation of delay of 239 days in filing the appeals and the appeals are directed against the order dated 10.10.2024 of the Id. Commissioner of Income-tax (Appeals), NFAC [hereinafter referred to as the Ld. CIT(A)] u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) arising out of the assessment orders dated 28.02.2013 and 30.01.2014 of

the Id. ACIT, Circle, Karnal, (hereinafter referred to as 'the Id. AO') u/s 143(3) of the Act for Assessment Years 2010-11 and 2011-12.

2. At the outset, the Id. AR for the appellant assessee submitted that there is a delay of 239 days in filing the appeals due to lapses on the part of the dealing hand. In view of the submissions regarding lapses on the part of the dealing hand, there is a delay of 239 days in filing the appeals. The explanation does not smack of mala fides as the appellant has not gained anything by not filing the appeals within the period of limitation. Therefore, the delay in filing the appeals is condoned.

3. The facts in brief in ITA No.5223/Del/2025 are that the assessee filed return on 31.03.2011 declaring nil income after claiming exemption u/s 10(23C)(vi) of the Act which was processed u/s 143(1) of the Act on 01.06.2011. The case was selected for scrutiny. Notices u/s 143(2) and 142(1) along with detailed questionnaire were issued on 19.09.2011, 26.09.2012 and 29.01.2013. Subsequently, hearings took place on the dates mentioned in order sheet. Shri Gireesh Aneja, C.A., counsel of the assessee, attended the hearings. During the assessment proceedings, various claims of deductions were evaluated, examined and supporting evidences checked on a test basis. As per consolidated income and expenditure account, gross receipts of the society during the year are at Rs.1,86,89,328/- and expenditure is at Rs.1,26,25,691/-. Thus, there is excess of income over expenditure of Rs.60,63,637/- which has been claimed exempt u/s

10(23C)(vi) of the Act. On completion of the proceedings, the ld. AO, vide order dated 28.02.2013 assessed the income of the assessee at Rs.60,63,637/-.

4. Against the order dated 28.02.2013 of the Ld. AO, the appeal was filed before the Ld. CIT(A) which was dismissed, vide order dated 10.10.2024.

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5. Likewise, in ITA No.5224/Del/2025, the Ld. AO, vide order dated 30.01.2014 assessed the income of the assessee at Rs.90,20,997/-. Against this order of the AO, the assessee filed before the Ld. CIT (A) which was also dismissed by the Ld. CIT(A), vide order dated 10.10.2024

6. Being aggrieved, the assessee preferred the present appeals with the following grounds:-

ITA No.5223/Del/2025

“1. That on the facts and circumstances of the case, the Ld. CIT Appeals has erred in law and on facts in not appreciating the order dated 31/07/2013 of the Hon'ble ITAT, NEW DELHI Bench “G” in ITA No. 5276/DEL/2012 for the AY 2009-10 in the case of the Assessee which could judiciously be applied to this year too.

2. That on the facts and circumstances of the case, the order of the A.O in assessing income of the assessee @ Rs.60,63,637/- is bad in law and the Ld. CIT(Appeals) has further erred in confirming the same.

3. The A.O has erred in law and on facts by mechanically following the action of the Ld. CCIT Panchkula in denying the benefit of Circular No: 7/2010 to the assessee, ignoring the binding and benevolent nature of the CBDT Circulars and the Ld. CIT(Appeals) has further erred in not appreciating the contention of the Assessee.

4. That the Appellant craves to add, amend or delete any ground(s) of appeal before or during the hearing of the appeal.”

ITA No.5224/Del/2025

“1. That on the facts and circumstances of the case, the Ld. CIT Appeals has erred in law and on facts in not appreciating the order dated 31/07/2013 of the Hon'ble ITAT, NEW DELHI Bench “G” in ITA No. 5276/DEL/2012 for the AY 2009-10 in the case of the Assessee which could judiciously be applied to this year too.

2. That on the facts and circumstances of the case, the order of the A.O in assessing income of the assessee @ Rs.90,20,997/- is bad in law and the Ld. CIT(Appels) has further erred in confirming the same.

3. The A.O has erred in law and on facts by mechanically following the action of the Ld. CCIT Panchkula in denying the benefit of Circular No: 7/2010 to the assessee, ignoring the binding and benevolent nature of the CBDT Circulars and the Ld. CIT(Appels) has further erred in not appreciating the contention of the Assessee.

4. That the Appellant craves to add, amend or delete any ground(s) of appeal before or during the hearing of the appeal.”

7. The ld. AR for the appellant-assessee submitted that the Ld. CIT(A) erred in confirming the additions denying benefits under the Board Circular. Hon’ble High Court in the assessee’s case, i.e., CWP No.10104 of 2011 titled as M/s S.D. Education Society, Karnal vs. Chief Commissioner of Income Tax, Panchkula in order dated 27.11.2015 has ordered for passing fresh orders as per law, after considering the judgement dated 10.05.2016 of the Apex Court CA No.95942 of 2013. Reliance was also placed on the order dated 22.12.2023 in ITA No.2031/Del/2021 and 2032/Del/2021 titled as “S.D. Education Society vs. ITO” for AYs 2012-13 and 2013-14.

8. The ld. DR submitted that the matter be restored to the file of the Ld. CIT(A).

9. From examination of the record in the light of the aforesaid rival contention, it is crystal clear that the ld.CIT(A) upheld the orders of the Ld. AO regarding assessment of income of the assessee by disallowing exemption u/s 10(23C)(vi) of the Act.

9.1 A coordinate Bench in assessee's own case in ITA No. 2031/Del/2021 and 2032/Del/2021 for AYs 2012-13 and 2013-14 vide order dated 22.12.2023 had remanded the issues to the file of the Ld. AO to decide the same after the application for exemption is decided.

9.2 The Hon'ble High Court in ***CWP No.10104 of 2011*** titled as ***M/s S.D. Education Society vs. CCIT, Panchkula, vide order dated 27.11.2025*** has held as under:-

"1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from CWP-10104-2011.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 14.02.2011 (Annexure P-1) and order dated 22.02.2011 (Annexure P-2) whereby respondent has denied exemption in terms of Section 10(23C)(vi) of Income Tax Act, 1961.

3. The petitioner claims that it is engaged in rendering services of education. It is not engaged in the business of profit making. It is entitled to exemption in terms of Section 10(23C)(vi) from levy of Income Tax. It filed application before Chief Commissioner Income Tax seeking exemption who vide impugned orders rejected the same.

4. *Learned counsel for the parties are ad idem that Hon'ble Supreme Court vide judgment dated 10.05.2016 passed in a bunch of appeals including CA No.95942 of 2013 has adjudicated the issue. Supreme Court has considered judgment of this Court passed in "**Pinegrove International Charitable Trust Vs. Union of India**", (2010) 327 ITR 73 (P&H). The matter needs to be reconsidered by competent authority in the light of different judgments passed by Supreme Court including afore-cited judgment.*

5. *In the wake of statement of both sides, the matters are remanded to respondent-jurisdictional competent authority to pass fresh order after granting opportunity of hearing to petitioners. The Court is sanguine that competent authority would notice judgments on the issues passed by different Courts including Hon'ble Supreme Court."*

9.3 In view of the above material facts, by respectfully following the judicial precedents, the impugned orders of the Ld. CIT(A) are set aside and the matters are restored to the files of the Ld. CIT(A) for passing a fresh order in accordance with the law, after affording fair opportunity of hearing to the appellant-assessee.

10. In the result, the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 07.01.2026.

Sd/-

(RENU JAUHRI)
ACCOUNTANT MEMBER

Dated: 07th January, 2026.

dk

Sd/-

(VIMAL KUMAR)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi