

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.1990/Ahd/2024
(Assessment Year: 2017-18)

Gujarat Knowledge Society, 602, 6 th Floor, Block No. 2, Karmayogi Bhavan, Gandhinagar, Gujarat - 382010	Vs.	Income Tax Officer, Ward-1(Exemption), Ahmedabad
[PAN No.AABTG3632R]		
(Appellant)	..	(Respondent)

Appellant by :	Shri S.N. Divatia & Shri Samir Vora AR's
Respondent by:	Shri R P Rastogi, CIT-DR

Date of Hearing	26.11.2025
Date of Pronouncement	29.01.2026

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the National Faceless Appeal Centre Delhi (in short “NFAC”), vide order dated 31.01.2024 passed for A.Y. 2017-18.

2. The assessee has taken the following grounds of appeal:-

“1. The order passed by U/s.250 passed on 31.01.2024 for AY 2017-18 by NFAC, [CIT(A)], Delhi (for short CIT(A))” upholding the denial of exemption u/s 10(23C)(iiiab) whereby making an addition of Rs.4,28,98,710/- towards interest income made by A.O. is wholly illegal, unlawful and against the principles of natural justice.

2. The Id. CIT(A), has grievously erred in law and or on facts in not considering fully and properly the submissions made and evidence produced during appellate proceedings in relation to the exemption u/s 10(23C)(iiiab) and interest income

3. The Id CIT(A) has grievously erred in law and or on facts in denying exemption u/s 10(23C)(iiiab).

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4. *That the in the facts and circumstances of the ld. CIT(A) ought not to have confirmed the denial of exemption u/s 10(23C)(iiiab).*

5. *The Id.CIT(A) has grievously erred in law and or on facts in upholding that interest income from GSFS was chargeable to tax ignoring the evidence by way of government resolution etc. produced by the appellant.*

6. *That the in the facts and circumstances of the Id. CIT(A) ought not to have confirmed the addition of interest income of Rs.4,28,98,710/-.*

It is, therefore, prayed that the additions upheld by the CIT(A) may kindly be deleted

Order on Condonation of Delay

3. The assessee has filed an application seeking condonation of delay of 239 days in filing the present appeal before the Tribunal. The appeal is directed against the order dated 31.01.2024 passed by the National Faceless Appeal Centre for the Assessment Year 2017–18, whereby the denial of exemption under section 10(23C)(iiiab) of the Income-tax Act, 1961 was upheld and an addition of Rs. 4,28,98,710/- towards interest income was sustained.

4. The assessee has explained that the impugned appellate order was uploaded on 31.01.2024 and, therefore, the appeal before the Tribunal was required to be filed on or before 30.03.2024. However, the appeal came to be filed on 25.11.2024, resulting in a delay of 239 days. An affidavit has been filed explaining the reasons for such delay.

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From the Affidavit, it is evident that the assessee is a public charitable institution established by the Government of Gujarat with the object of bridging the gap between the educational system and industry by conducting short-term courses to enhance employment opportunities. The governing body of the assessee consists of high-ranking officers of the State Government, and decisions relating to litigation are taken collectively and institutionally. It has been stated that routine income-tax matters are handled by the office staff, subject to approvals and sanctions of the governing body, and due to frequent transfers and changes of staff, delays occur in decision-making.

5. It has further been explained that after receipt of the appellate order dated 31.01.2024, the General Elections to the Lok Sabha were announced and the Model Code of Conduct came into operation. As a result, the State Government was restricted in taking administrative decisions, including appointment of consultants. The Income-tax Consultant was eventually appointed as the authorised representative only vide work order dated 09.06.2024. Thereafter, due to ongoing audit work, routine administrative workload, staff constraints and the time taken in locating and compiling old records, further delay occurred in filing the appeal. It has been categorically stated that there was no intention on the part of the assessee to not pursue the statutory remedy, particularly when the institution is run and controlled by the State Government.

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6. The principles governing condonation of delay are well settled. The expression “sufficient cause” in section 5 of the Limitation Act is to be construed liberally so as to advance substantial justice. The Hon’ble Supreme Court in the case of *G. Ramegowda, Major & Ors. v. Special Land Acquisition Officer, Bangalore* (1988) 2 SCC 142 has held that in matters where the Government or its instrumentalities are parties, certain latitude is permissible, keeping in view the impersonal and institutional nature of governmental decision-making and the procedural delays inherent therein. The Hon’ble Court observed that if appeals by the Government are lost on account of delay, it is public interest that ultimately suffers.

7. Similarly, in *State of Haryana v. Chandra Mani & Ors.* (1996) 3 SCC 132, the Hon’ble Supreme Court condoned the delay by observing that some amount of latitude within reasonable limits is permissible in view of the bureaucratic set-up and procedural red tape.

8. Applying the aforesaid principles to the facts of the present case, we find that the assessee is a public charitable institution established and controlled by the State Government and the reasons for delay, as explained in the affidavit, are bona fide and duly supported by the surrounding circumstances. The delay has occurred due to institutional decision-making, administrative constraints, change of staff, operation of

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the Model Code of Conduct during elections, and the time taken in appointing a consultant and compiling records. There is no material on record to suggest that the delay was deliberate or that the assessee acted with negligence or mala fide intention.

9. We are also conscious of the fact that refusal to condone the delay would result in denial of adjudication on merits in a matter involving substantial questions relating to exemption claimed by a government-established charitable institution. In our considered view, the cause shown by the assessee constitutes “sufficient cause” within the meaning of law.

10. Accordingly, in the interest of substantial justice, the delay of 239 days in filing the present appeal is condoned and the appeal is admitted for adjudication on merits.

On Merits, the brief facts of the case are that the assessee, Gujarat Knowledge Society, is a trust established by the Government of Gujarat with the object of bridging the gap between the education system and industry by conducting short-term vocational and skill-oriented courses at nominal rates. The assessee is a registered charitable trust holding registration under section 12AA of the Income-tax Act, 1961 (“the Act”), and has consistently claimed exemption under sections 10 and 11 of the Act. For the Assessment Year 2017–18, the assessee filed its return of

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income declaring NIL income after claiming exemption under section 10(23C)(iiiab) of the Act.

11. During the assessment proceedings, the Assessing Officer examined the claim of exemption under section 10(23C)(iiiab). The Assessing Officer observed that during the relevant previous year, the assessee had not received any fresh grant from the Government of Gujarat and that **its main receipts consisted of interest income earned on surplus funds parked with Gujarat State Financial Services Ltd. (GSFS), along with minor miscellaneous income.** The Assessing Officer invoked Rule 2BBB of the Income-tax Rules, 1962, and held that interest earned on unutilized grants could not be treated as government grants received during the year. Relying heavily on the judgment of the Hon'ble Supreme Court in the case of Visvesvaraya Technological University v. ACIT reported in 68 taxmann.com 287 (SC), the Assessing Officer held that the assessee was not wholly or substantially financed by the Government during the relevant year. Accordingly, the exemption under section 10(23C)(iiiab) was denied, and the total income of Rs.4,28,98,710/- was brought to tax.

12. Aggrieved by the assessment order, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals). Before the CIT(Appeals), the assessee submitted that the assessee is a Government-established and Government-controlled trust, whose trustees are high-

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ranking officials of the State Government. The assessee submitted that the surplus funds invested with GSFS represented unutilized government grants received in earlier years and that such investment was made strictly in accordance with binding Circulars issued by the Finance Department of the Government of Gujarat. **The assessee pointed out that as per these Circulars, the interest earned on such parked funds was required to be transferred back to the Government of Gujarat and, therefore, the assessee had no beneficial ownership over such interest income.**

13. The assessee further contended that the interest income could not be treated as its independent income, as it was in the nature of a liability payable to the State Government. Alternatively, it was submitted that even if the interest income was considered as income, the assessee was entitled to exemption under section 11 of the Act by virtue of its valid registration under section 12AA, and the application of income in earlier and subsequent years had been consistently accepted by the Department. The assessee also highlighted the principle of consistency, pointing out that in Assessment Year 2016–17, a scrutiny assessment under section 143(3) of the Act had been completed accepting similar claims on identical facts.

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14. The assessee strongly distinguished the reliance placed by the Assessing Officer on the decision of the Hon'ble Supreme Court in Visvesvaraya Technological University. It was explained that in that case, the university was generating substantial income from student fees, and government grants formed only a negligible portion of total receipts, whereas in the present case, the assessee did not run any conventional educational institution, charged only nominal fees, and the entire financial structure was rooted in Government grants and Government-controlled funds. It was thus argued that the ratio of the Visvesvaraya decision was wrongly applied to the assessee's case.

15. After considering the submissions, the CIT(Appeals) rejected the contentions of the assessee. The CIT(Appeals) held that Rule 2BBB clearly requires that Government grants received during the relevant previous year should exceed 50% of total receipts, and since no grant was received during the year, the assessee failed to satisfy the condition of being substantially financed by the Government. The CIT(Appeals) further held that interest earned on unutilized grants could not be treated as Government grant and accepting such a contention would amount to granting double benefit to the assessee. The reliance placed by the Assessing Officer on the decision of the Hon'ble Supreme Court in Visvesvaraya Technological University was upheld. Consequently, the denial of exemption under section 10(23C)(iiiab) and the addition of Rs.4,28,98,710/- were confirmed.

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16. The assessee is in appeal before us against the order passed by the CIT(Appeals) dismissing the appeal of the assessee.

17. We have heard the rival contentions and perused the material on record. The issue before us is whether the assessee is entitled to exemption under section 10(23C)(iiiab) of the Act, in respect of interest income earned on surplus funds invested with GSFS, and whether the authorities below were justified in denying such exemption by placing reliance on Rule 2BBB and the decision of the Hon'ble Supreme Court in the case of Visvesvaraya Technological University.

18. From the facts on record, it is undisputed that the assessee is a trust established and controlled by the Government of Gujarat, and that it exists solely for educational and skill-development purposes without any profit motive. It is also undisputed that the surplus funds invested with GSFS represent unutilized Government grants received in earlier years and that such investment was made pursuant to binding directions issued by the State Government. **The Circulars placed on record clearly show that the interest earned on such deposits is required to be transferred back to the Government of Gujarat and is to be treated as part of the State's revenue. In such circumstances, the assessee does not enjoy beneficial ownership over the interest income.**

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19. We find force in the contention of the assessee that the interest earned on Government grants, which is mandatorily refundable to the Government, cannot be treated as independent income of the assessee. Even otherwise, the interest retains the character of Government funds and cannot be divorced from the original grant. The rigid interpretation adopted by the lower authorities, by excluding interest income from the ambit of Government financing, defeats the very purpose of section 10(23C)(iiiab) of the Act, which is an incentive provision meant for Government-funded educational institutions.

20. The reliance placed by the Assessing Officer and the CIT(Appeals) on the judgment of the Hon'ble Supreme Court in *Visvesvaraya Technological University v. ACIT* reported in 68 taxmann.com 287 (SC) is, in our considered view, misplaced. In that case, the Hon'ble Supreme Court was dealing with a situation where the institution was largely self-financed through substantial fee collections from students and Government grants formed only a small fraction of total receipts. The Hon'ble Supreme Court did not examine the issue of interest earned on unutilized government grants or the effect of Government directions mandating the return of such interest to the State exchequer. The factual matrix of the present case is different, and therefore, the ratio of the said decision cannot be mechanically applied.

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21. We also find support from judicial precedents which have taken a purposive view of the expression “wholly or substantially financed by the Government” and have held that the overall control, funding pattern and financial dependence on the Government must be considered, rather than adopting a narrow year-wise arithmetical test.

22. In view of the above discussion, we hold that the assessee is entitled to exemption under section 10(23C)(iiiab) of the Act for the Assessment Year 2017–18.

23. In the result, the appeal of the assessee is allowed.

This Order is pronounced in the Open Court on 29/01/2026

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT

Ahmedabad; Dated 29 /01/2026

Neelesh, Sr. PS

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

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

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad