

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER  
AND  
SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
(Physical Hearing)**

**I.T.A. Nos. 562 and 563/Asr/2025  
Assessment Year: 2023-24 and 2024-25**

School Managing Society Capt. Gurcharan Singh Kapurthala, Punjab. [PAN:-AADTS4577P] <b>(Appellant)</b>	Vs.	DCIT, CPC, Bengaluru/ ITO (E) Ward, Jalandhar.  <b>(Respondent)</b>
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<b>Appellant by</b>	Sh. Y.K. Sud, CA
<b>Respondent by</b>	Sh. Charan Dass, Sr. DR

<b>Date of Hearing</b>	20.01.2026
<b>Date of Pronouncement</b>	26.02.2026

**ORDER**

**Per: Udayan Dasgupta, J.M.:**

This appeal is filed by the assessee against the order of Id. Addl./JCIT (A)-9, Delhi, passed u/s 250 of the Act, 1961 vide order dated 29.05.2025 which has emanated from the order of CPC, Bengaluru, passed u/s 143(1) of the Act, vide order dated 18.11.2024.

2. The grounds of appeal taken by the assessee in form 36 are as follows:

*“1 That the CIT(A) was not justified in not allowing the exemption claimed by the assessee u/s 10(23c) (iiiad)*

*2 That CIT(A) failed to appreciate while disallowing the 0 exemption that if the assessee is entitled to exemption in some different sections, he can claim the same in the appellant proceedings before the CIT(A).*

*3 That without prejudice to the above grounds that CIT(A) 0 was not justified in upholding the action of the AO in not allowing the expenses amounting to Rs. 6964956.75 claimed from the gross receipts amounting to Rs. 7105690.60 and levying that tax on the gross receipts and not the net receipts after expenses amounting to Rs. 140733.85*

*4. That the orders of AO and Addl/JCIT(A) is against the Law 0 and Facts of the case.”*

3. Brief facts emerging from records are that the assessee is a trust running an educational institution “ *Premjoy Public School*, which is duly affiliated with the CBSE Board , and duly registered u/s 12AA(I)(b)(i) of the Act 61, wef 01/04/2003 ( *vide order of CIT dated 16/02/2005* ), but new re-registration procedure u/s 12AB as introduced by the Finance Act 2020 , which was required in the instant case, was missed due to oversight, and consequently, the returned income of NIL filed for the year under appeal, claiming exemption u/s 11, as per audited financials ( *income and expenditure A/c and balance sheet* ), along with audit report in form 10BB , has been ignored and assessment completed by CPC Bangalore, u/s 143(1) of the Act,

by treating the entire gross receipts of *Rs. 71.05 lakhs*, as total income, thereby denying the benefit of exemption u/s 11, and also by refusing to allow the claim of expenditure as per accounts, thereby raising a tax demand of *Rs. 27.72 lakhs*.

4. The matter was carried in appeal before the Ld. first appellate authority primarily agitating two issues, firstly, since exemption u/s 11 is being denied ( *in absence of 12AB registration* ), the claim of expenses as per audited accounts directly related to earning of such income should be allowed as deduction and secondly, since the assessee is an educational institution, existing solely for educational purpose and not for purpose of profits and the gross annual receipts, being less than the stipulated limit ( *less than Rs. five crores wef AY 2022-23*), the assessee is entitled to the claim of exemption *u/s 10(23C)(iiiad) of the Act*, irrespective of any registration.

5. The Ld. CIT (A) has dismissed the appeal of the assessee with the observation ( *para 6.4 and 6.5 of the appeal order* ) that in absence of any registration u/s 12AB, there cannot be any claim for exemption u/s 11 and further observed that CPC, has processed the return u/s 143(1), as per the facts and figures returned by the assessee, and since the exemption u/s 10(23)(c) has never been claimed by the assessee, the said exemption could not have been allowed.

6. In course of hearing the Ld. AR of the assessee submitted that the powers of the CIT(A) are co terminus with the powers of the AO and any claim which is legally

allowable to the assessee has to be considered in appeal proceedings and the same needs to be allowed if the materials on the basis of which such claim arises are available on record, and in the instant case the fact that the assessee is an educational institution existing solely for educational purpose and not for purpose of profits, are ascertainable from the records such as the affiliation certificate of the CBSE (*Central Board of Secondary Education*), issued to the assessee, supported by audit reports, and audited income and expenditure account and balance sheet and past assessment records . In support of his contention, he relied on the following decisions:

- “i. *National Thermal Power Co. Ltd. Vs. CIT 229 ITR 383 (SC)*
- ii. *CIT vs. Motor Industries Co. Ltd. Ww9 ITR 137 (Karn).*
- iii. *Pruthvi Brokers and Shareholders Pvt. Ltd. (2012) 349 ITR 336 (Bom.).*
- iv. *CIT vs. Abhinitha Foundation Pvt. Ltd. 396 ITR 251 (Mad).”*

7. Regarding the second issue that in case where the claim of exemption u/s 11 and 12 are denied, in absence of registration u/s 12AB, the claim for allowability of expenditures directly attributable to the earning of income , needs to be considered and allowed as deduction as claimed in the income and expenditure A/c and computation of income has to be made as per normal provisions of the Act, 61.

8. In support of his contention he relied on the following:

*“i.Saroj Gopal Educational Society vs. ITO (Exemption) 203 ITD 62 (Raipur).*

*ii. DCIT vs. Shree Saraswati Education Sansthan 203 ITD 668 (Ahmedabad)*

*iii. Annadaneshwara Charitable Trust Vs. ITO 203 ITD 641 (Bangalore).*

*iv. Church Educational Society vs. ACIT 232 TTJ 553 (Hyd).”*

8.1 He concluded his submission praying for adequate relief.

9. The Ld. DR relied on the order of the Ld. CIT(A) and retreated the same arguments as contained in the appellate order, and prayed for upholding the same.

10. We have heard the rival submissions and considered the materials on record, and we are of the opinion that since the assessee is an educational institution established exclusively for educational purpose ( *and not for profit* ) and the total annual receipts are only Rs. 71.05 lakhs ( *which is much below the stipulated limit prescribed* ) and as ascertainable from the enclosed audited accounts, expenditure incurred are for the purpose of running the educational institute, return has been filed *in ITR-7*, along with audited financials and *audit report in form 10BB* , we hold that the assessee is legally entitled to the claim of exemption u/s 10(23C) (iiiad), and regarding the question of claim of exemption under the section , being not made in the return, but being claimed for the first time, before the appellate authorities, we respectfully wish to rely on the observation of the *Hon'ble Apex court in the case of*

*NTPC vs CIT (229 ITR 383)*, where in **paragraph – 7 of the order the Hon’ble court** has observed as follows:

*“The view that the Tribunal is confined only to issues arising out of the appeal before the Commissioner of Income-tax (Appeals) takes too narrow a view of the powers of the Appellate Tribunal [vide, e.g., C.I.T. v. Anand Prasad (Delhi), C.I.T. v. KaramchandPremchand P. Ltd. and C.I.T. v. Cellulose Products of India Ltd. Undoubtedly, the Tribunal will have the discretion to allow or not allow a new ground to be raised. But where the Tribunal is only required to consider a question of law arising from the facts which are on record in the assessment proceedings we fail to see why such a question should not be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of an assessee.*

10.1 In the instant case before us it a question of law which is put forth by the assessee where the assessee has claimed an exemption for the first time, under section 10(23C) (iiiad) of the Act, which is legally allowable to him, on the basis of materials already available on record, and in order to correctly assess the tax liability, there is no reason as to why the said exemption claimed will be denied.

10.2 As such we allow the claim of the assessee u/s 10(23C) (iiiad) of the Act, for the year under appeal and the assessee will get consequential relief.

11. Since we have decided the issue in favour of the assessee on the legal aspect of the matter, we do not take up the ground no – 3, for consideration.

12. In the result the appeal of the assessee is allowed.

**ITA No 563/ASR/2025**

14. Our observation in ITA No. 562/Asr/2025 applies *mutatis mutandis* to this appeal also. Hence the appeal in ITA No. 563/Asr/2025 are also allowed and follows accordingly.

15. In the result, both the appeals are allowed.

**Order pronounced on 26.02.2026 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.**

**Sd/-**

**(MANOJ KUMAR AGGARWAL)**  
**Accountant Member**

**Sd/-**

**(UDAYAN DASGUPTA)**  
**Judicial Member**

AKV

Copy of the order forwarded to:

- (1)The Appellant
- (2) The Respondent
- (3) The CIT
- (4)The DR, I.T.A.T.

True Copy  
By order