

(2009) 08 P&H CK 0247

High Court Of Punjab And Haryana At Chandigarh**Case No:** Income Tax A.NO. 519 of 2007 (A.Y. 2000-01)

Commissioner of Income Tax

APPELLANT

Vs

Mahasabha Gurukul Vidyapeeth

RESPONDENT

Date of Decision: Aug. 20, 2009**Acts Referred:**

- Income Tax Act, 1961 - Section 10(23C), 11, 12(A), 260A

Hon'ble Judges: Daya Chaudhary, J; Adarsh Kumar Goel, J**Bench:** Division Bench**Final Decision:** Dismissed

Judgement

Adarsh Kumar Goel, J.

The revenue has preferred this appeal u/s 260A of the Income Tax Act, 1961 (for short, "the Act") against the order of the Income Tax Appellate Tribunal, Delhi Bench "A" dated 27-4-2007, passed in I. T. A. No. 1422 and 1423/DEL/2004 for the assessment year 2000-01, proposing to raise the following substantial question of law:

Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal has erred in law in allowing the exemption of income of an educational society, which is not notified u/s 10(23C)(vi) of the Income Tax Act, 1961 ?

2. The assessee is running an educational institution and claimed exemption u/s 11 of the Act in respect of its income. The assessing officer did not accept this plea on the ground that the assessee failed to file notification u/s 10(23C)(vi). The Commissioner (Appeals) upheld the stand of the assessee. It was observed that the absence of registration u/s 10(23C)(vi) was no bar to exemption u/s 11. This view has been affirmed by the Tribunal relying upon the judgment of the honble Supreme Court in [Commissioner of Income Tax, Bombay Vs. Bar Council of Maharashtra](#). It was also noticed that the assessee was duly registered u/s 12A and exemption had been granted for the assessment years 1997-98, 1998-99 and 2002-03.

3. It is patent that the assessee has been granted exemption before the assessment year in question as well as after the assessment year in question.

4. The only contention put forward by the learned Counsel for the revenue is that the conditions of Section 10(23C)(vi) having not been complied with, exemption could not be granted u/s 11. He relies upon the judgment of the honble the apex court in [American Hotel and Lodging Association Educational Institute Vs. Central Board of Direct Taxes and Others](#), .

5. We do not find any merit in the submission. Once it is held that all requisite conditions for exemption u/s 11 have been met, even if conditions u/s 10(23C)(vi) have not been complied with, there will be no bar to seek exemption u/s 11. The judgment relied upon has no application to the present case as therein the question was as to the scope of enquiry u/s 10(23C)(vi) read with the third proviso thereto. The view taken in [Commissioner of Income Tax, Bombay Vs. Bar Council of Maharashtra](#), is not shown to have been affected. The Commissioner (Appeals) as well as the Tribunal have categorically held that all the conditions of Section 11 were fulfilled and the judgment in Bar Council of Maharashtra was applicable. We are, thus, unable to hold that any substantial question of law arises.

6. The appeal is dismissed.