

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.A. No. 519 of 2007

DATE OF DECISION: 20.8.2009

Commissioner of Income Tax, RohtakAppellant

Versus

M/s Mahasabha Gurukul Vidyapeeth HaryanaRespondent
Bhainswal & Khanpur Kalan District Sonapat

**CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MRS. JUSTICE DAYA CHAUDHARY**

Present:- Mr. Aman Bansal, Advocate
for the appellant.

ADARSH KUMAR GOEL, J. (Oral)

1. The revenue has preferred this appeal under Section 260A of the Income Tax Act, 1961 (for short, "the Act") against the order of Income Tax Appellate Tribunal, Delhi Bench 'A' dated 27.04.2007 passed in ITA No.1422 & 1423/DEL/2004 for the assessment year 2000-01, proposing to raise 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 under section 10(23C) (vi) of the Income Tax Act, 1961?”

2. The assessee is running an educational institution and claimed exemption under Section 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 under Section 10(23C) (vi). The CIT(A) upheld the stand of the assessee. It was observed that absence of registration under Section 10(23C) (vi) was no bar to exemption under Section 11. This view has been affirmed by the Tribunal relying upon the judgment of the Hon'ble

Supreme Court in **CIT Vs. Bar Council of Maharashtra (1981) 130 ITR**

78. It was also noticed that the assessee was duly registered under Section 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. Only contention put forward by the learned counsel for the revenue is that conditions of Section 10(23C) (vi) having not been complied with, exemption could not be granted under Section 11. He relies upon the judgment of Hon'ble the Apex Court in **American Hotel and Lodging Association Educational Institute Vs. Central Board of Direct Taxes and others** (2008) 301 ITR 86.

5. We do not find any merit in the submission. Once it is held that all requisite conditions for exemption under Section 11 have been met, even if conditions under Section 10 (23C) (vi) have not been complied with, there will be no bar to seek exemption under Section 11. The judgment relied upon has no application to the present case as therein the question was as to the scope of enquiry under Section 10 (23C) (vi) read with 3rd proviso thereto. The view taken in **Bar Council of Maharashtra** (supra) is not shown to have been affected. The CIT (A) as well as the Tribunal have categorically held that all conditions of Section 11 were fulfilled and 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.

(ADARSH KUMAR GOEL)
JUDGE

August 20, 2009
pooja

(DAYA CHAUDHARY)
JUDGE

I.T.A. No. 519 of 2007

(3)

Note:-Whether this case is to be referred to the ReporterYes/No