

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “ए” , चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH “A”, CHANDIGARH

HEARING THROUGH: HYBRID MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No. 1122/Chd/2024

निर्धारण वर्ष / Assessment Year : 2024-25

Indian Institute of Management Sirmaur Dhaura Kuan, Dist: Sirmaur	बनाम	The CIT(E) Chandigarh
स्थायी लेखा सं. / PAN NO: AAAAJ9266R		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate
राजस्व की ओर से/ Revenue by : Shri Rohit Sharma, CIT DR (Virtual)

सुनवाई की तारीख/Date of Hearing : 02/04/2025
उद्घोषणा की तारीख/Date of Pronouncement : 01/05/2025

आदेश/Order

PER KRINWANT SAHAY, AM:

This is an appeal filed by the Assessee against the order of the Ld. CIT(Exemptions), Chandigarh dt. 08/10/2024 vide which the registration application u/s 10(23C)(iii) of the Act was denied to the assessee.

2. In the present appeal Assessee has raised the following grounds:

- "1. That the Ld. CIT (Exemptions) has erred in rejecting the application for granting approval u/s 10(23C)(iii) of the Income Tax Act.
2. That the rejection of application u/s 10(23C)(iii) is against the facts and circumstances of the case.
3. That the replies as filed during the course of proceedings before the CIT(Exemptions) have not been considered properly.
4. That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or deposed off."

3. Briefly, the facts of the case are that the Indian Institute of Management Sirmaur is a Centrally Funded Institution of National Importance set up by the Government of India in 2015. IIM Sirmaur is one of the newer institutions of the IIM family in the country. As a premier institution, under aegis of Ministry of Education, Government of India, it aims to provide

Management Education of high quality and promotes allied areas of knowledge and inter-disciplinary studies. The appellant was earlier registered as Society on 11-08-2015 which later became an Institute by the Act of Parliament on 31-12-2017 and is now governed by the Indian Institutes of Management Act, 2017.

4. The accounts of the Institution are audited by C&AG. The IIM mainly offer undergraduate/ postgraduate, postgraduate, doctoral, and executive education programs. The Appellant institute is the institution of excellence, established with the objectives of imparting high quality management education and training, conducting research and providing consultancy services in the field of management to various sectors of the Indian economy.

5. The issue in the present appeal is that appellant applied for provisional registration in Form 10A on 16.03.2024 and the said provisional registration was granted in Form 10AC vide order, dated 23.03.2024 under sub-clause (A) of clause (iv) of first proviso to clause (23C) of section 10.

6. The sub-clause (A) of clause (iv) of first proviso to clause (23C) of section 10 of the Income Tax Act, 1961 ('the Act') is applicable to assessee, who applied for registration before commencement of activities of Trust but since the appellant was in existence before making the application, so, the same was not applicable to the Assessee.

7. Thereafter, the appellant applied to Commissioner of Income Tax (Exemptions), Chandigarh for final registration under clause (iii) of first proviso to clause (23C) of section 10 of the Act in Form 10AB dated 17.04.2024.

8. The CIT (Exemptions) called for detailed information, which was complied and no objection was raised to the activities carried out by the Trust. The CIT (Exemptions) refused to grant the registration, since it was noticed that the provisional approval could not have been granted to the assessee as the appellant has already commenced its activities in 2015 and, thus, it was stated by the CIT (Exemptions) that provisional approval being bad in law and, thus, rejected the application of the assessee.

9. It was argued by the Ld. Counsel that the assessee is engaged in providing activities of imparting high quality management education and training conducted research and providing the consultation services in the field of management. The provisional registration was applied by the then Counsel, who inadvertently applied in sub- clause (A) of clause (iv) of first proviso to clause (23C) of section 10 of the Act. The said registration was granted by the department and, thus, the mistake which was already committed by the then counsel of assessee, such mistake was also committed by the department in granting provisional registration. It was further argued that complete facts were available on record that the appellant was incorporated in 2015, so, it was an inadvertent mistake on the part of the counsel.

10. It was further argued that the members of the appellant Institute have no knowledge about the Income tax and they are totally dependent upon their counsel for filing all relevant forms to the department. For such mistake of the counsel, the assessee should not suffer. Reliance was placed on the judgment of Hon'ble Punjab & Haryana High Court in the case of Sh. Manoj Ahuja, reported in 43 CTR 229 and besides that for the said preposition, the assessee relied upon other case laws like ;

- (i) National Contracting Company Pvt. Ltd. vs DCIT, ITAT Chennai, ITA No. 455/Chny/2024.
- (ii) SR Koshti vs CIT, Gujarat High Court reported in 276 ITR 165.

11. The Ld. Counsel also relied upon the judgment of Chandigarh Bench of the ITAT that even if there is mistake by the assessee for claiming the legitimate exemption/deduction, the Income Tax Authority is duty bound to consider such legitimate claim and give it under the proper and legitimate section to the assessee, even if it is claimed under wrong section. The Counsel also relied upon the following judgments: -

- a. The Habrol Cooperative Agricultural Service Society Limited vs. The ITO in ITA No. 158/Chd/2024 dated 26.09.2024 ITAT Chd.
- b. Punjab Agriculture University vs. The DCIT(Exemption), Chandigarh in ITA No. 661/Chd/2024 and 492/Chd/2024 dated 18.12.2024 ITAT Chd

c. CIT vs Heidrick and Struggles Inc. reported in 461 ITR 33 (Delhi High Court) dated 25.07.2023

12. The assessee further, relied upon the judgment of Chandigarh Bench of the ITAT in the case of Society for Technology Business Incubator, Indian Institute of Science, in ITA No. 1134/Chd/2024 vide order, dated 27.03.2025, wherein, on similar facts and circumstances, the registration u/s 80G(5)(vi) was refused because the application moved by the assessee because of quoting wrong sub- clause. The Hon'ble Bench after considering similar plea, directed the CIT(Exemptions), to grant approval to the assessee.

13. The Ld. CIT (DR) relied on the finding given in the order of CIT(E) and argued that the refusal to grant registration by the CIT (Exemptions) was correct since wrong section was mentioned in the application filed by the assessee.

14. We have considered the order of CIT (Exemptions), arguments of the Ld. Counsel and Ld. CIT (DR) and the paper book as submitted by the assessee. The facts are not disputed that the appellant is an Institute of National Importance and no doubt have been raised about the aims and objects of the said Institute. We find that it was only on account of choosing wrong sub-section for claiming approval under clause (iii) of first proviso to clause (23C) of section 10, the mistake has been committed. Even the CIT (Exemptions), while denying the said approval has given a finding that since on account of wrong sub- clause under which the provisional approval was granted is bad in law, therefore, the application as filed by the assessee for grant of approval under clause (iii) of first proviso to clause (23C) of section 10 is rejected. The appellant Institute is existing since 2015 and, as such, the approval was refused only on account of technical mistake on the part of the counsel of the assessee, who inadvertently had choosen wrong sub-section while moving the application for approval under clause (iii) of first proviso to clause (23C) of section 10.

15. The Chandigarh Bench of the ITAT in similar facts and circumstances, in the case of The Harbrol Cooperative Agricultural Service Society Ltd. in ITA No. 158/Chd/2024, where a similar issue was there has taken a view that if

there is mistake by the assessee for claiming legitimate deduction, the AO is duty bound to consider such legitimate deduction to the assessee even if, it was not claimed or claimed under wrong section. The relevant finding in the above said is as under:-

"9. From this provision it is clear that section 80A(5) is broadly applied where any deduction is to be claimed u/s 10A or section 10AA or section 10(B) or section 10BA etc. Here, in this case, the Assessee is a cooperative society and it has to be allowed deduction u/s 80P(2)(c)(i) so, it has nothing to do with section 80A (5) of the Act.

10. Further, we have considered the case laws brought on record by the Id. Counsel of the Assessee and we find that there are number of case laws supporting view that in case there is a mistake by Assessee for claiming legitimate deduction, the Assessing Officer is duty bound to consider such legitimate deduction to the Assessee even if it was not claimed or claimed under wrong sections. Accordingly, we do not find any justification in the findings given by the Addl/JCIT (A) and so it cannot be sustained, thus Assessee's appeal on this issue is allowed.

11. In the result, the appeal is allowed."

16. Similar view have been taken by the Chandigarh Bench in the case of Punjab Agricultural University in ITA Nos. 661/Chd/2024 & 492/Chd/2024 and the relevant finding is being reproduced as under:-

"23. Thus, it is clear that as already stated above that due to the mistake of the earlier Counsel of the Assessee who claimed deduction by putting wrong section in the return of income should not be considered the culpability of the Assessee. Accordingly, we are of the considered opinion that Assessee's appeal on grounds in both the assessment years i.e., 2018-19 and 2019-20 should be allowed.

24. In the result, Assessee's appeal for A.Y. 2018-19 and 2019-20 are allowed."

17. We have also gone through the judgment of Delhi High Court in the case of Heidrick and Struggles Inc., reported in 461 ITR 33 and, wherein, the following finding has been given:-

"15. Having regard to the aforesaid, we are of the view that the Tribunal has taken a just view in consonance with the provisions of the Act and the aforementioned circular issued by the CBDT. Undoubtedly, the appellant/revenue can seek to levy tax only on income which falls within the ambit of the Act. Merely because the respondent/assessee placed the income under a wrong head, cannot possibly make it amendable to imposition of tax."

18. Thus, in view of above said facts and circumstances of the case and by relying upon above said judgment of Delhi High Court and of the

Chandigarh Bench, we direct the CIT (Exemptions) to grant the approval to the assessee as if it is an old Institute, which came into existence prior to 01.04.2021. It is entitled to get approval under clause (iii) of first proviso to clause (23C) of section 10.

19. Accordingly, assessee's appeal on grounds raised is allowed.

Order pronounced in the open Court on 01/05/2025

Sd/-

ललित कुमार
(LALIET KUMAR)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

कृणवन्त सहाय
(KRINWANT SAHAY)

लेखा सदस्य/ ACCOUNTANT MEMBER

AG

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar