

\$~24

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 138/2021

COMMISSIONER OF INCOME TAX (EXEMPTIONS) DELHI

..... Appellant

Through: Mr. Abhishek Maratha, Sr. Standing
Counsel.

versus

**NATIONAL SAFAI KARAMCHARIS FINANCE AND
DEVELOPMENT CORPORATION**

..... Respondent

Through: None.

%

Date of Decision: 27th August, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J: (Oral)

1. The hearing has been done by way of video conferencing.
2. Present appeal has been filed challenging the order dated 20th November, 2019 passed by the ITAT in ITA No 6907/Del/2018 for AY 2017-18.
3. Learned Counsel for the Appellant states that the ITAT erred in allowing the exemption under Section 10(26B) of the Income Tax Act, 1961 to the Assessee and in not appreciating that this benefit is specifically

restricted to promotion of interest of members of SC, ST, OBC community only. He states that the target group of the assessee are ‘ Safai Karmacharis’, who may or may not belong to SC, ST or OBC community.

4. In our opinion, the Tribunal has given a categorical finding of fact that the respondent assessee, which is a Section 25 Company fully owned by the Government of India, uses its funds exclusively for the benefit of SC community who are inhabitants of Delhi. The relevant portion of the impugned order is reproduced herein below:-

“7. We have gone through the record in the light of the submission on either side. The requirement of Section 10(26B) is that a Corporation established by a Central or State Act, wholly financed by the Government and working for the promotion of interest of the members of Schedule Castes or the Scheduled Tribes or other backward classes is entitled to claim the benefit of section 10(26B) and income shall not be included in total income. It is an admitted fact by both the authorities below held that the assessee is a Section 25 Company fully owned by the Government of India. As its names suggests the assessee has been engaged in the work of development of the National SafaiKarmacharis who are involved in the upliftment of SafaiKarmacharis & Manual Scavengers who belong to Scheduled Caste, Scheduled Tribe or Other Backward Classes and also in the inhumane practice of scavenging and other sanitation activities. SafaiKarmacharis& Manual Scavengers are the poorest of the poor in the society and it does not require any Certificate to know the said fact. Further, Section 10(26B) clearly says that the target group could be the members of the Schedule Castes or the Scheduled Tribes or other backward classes or any two or all of them. It, therefore, makes the things clear that if an entity is a corporation established by a Central or State Act is engaged in the upliftment of SC or ST or OBC or a mix of them is entitled to claim benefit u/s 10(26B). As we have observed above, it could be said that any category of members in the activity of Manual Scavengers or Safai work

could fall in any of these three categories. Section 10(26B) contemplates not only the caste but also class.

8. Further, the letter dated 22.03.2000 clinches the issue wherein the state agency clearly stated that the finances from the assessee to the State agency was exclusively for the benefit of SC community inhabiting the Delhi area and possessing the Certificate to such an effect. It also stated therein that a general agreement was on this aspect between the assessee and state agency. These circumstances do not admit of any doubt as to the entitlement of the assessee to claim the benefit under section 10(26B) and with that view of the matter we find it difficult to agree with the view of the authorities below. We, therefore, set aside both the orders and direct the Learned Assessing Officer to allow the assessee to benefit of section 10(26B) of the Act. ”

(Emphasis supplied)

5. Since the Tribunal which is the highest fact finding authority has given a categorical finding, which suffers from no perversity, this Court finds no reason to interfere.
6. Accordingly, the present appeal, being bereft of merit, is dismissed.
7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

AUGUST 27, 2021
AS