IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(207) **ITA-210-2010 (O&M)**
Decided on : 29.11.2023

Gandhi College of Pharmacy

……Appellant(s)

Versus

Commissioner of Income Tax Karnal and another

……Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Shantanu Bansal, Advocate and
Mr. Yugank Goyal, Advocate for the appellant.

Ms. Gauri Neo Rampal Opal, Senior Standing Counsel
for the respondents.

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G.S. Sandhawalia, J. (Oral)

The present appeal under Section 260A of the Income Tax Act, 1961 (for short 'the Act') is directed against the order dated 12.06.2009 (Annexure A-5) passed by the Income Tax Appellate Tribunal, Delhi (for short 'the Tribunal') for the Assessment Year 2004-2005.

2. The appeal was admitted on 21.07.2010 to consider the questions of law mentioned in para No.9 of the appeal, which read as under:-

> "i) Whether in the facts and circumstances of the case, the appellant institution is eligible for exemption under section 10(23C)(iiiad) of the Act as it satisfies all the requirements of the section?
> ii) Whether in the facts and circumstances of the case, the impugned orders have erred in revising the order of the A.O. under section 263 of the Act as the conditions of Section 263 are not satisfied?

iii) Whether in the facts and circumstances of the case, an educational institution existing solely for educational purpose is eligible for exemption under section 10 (23C)(iiiad) even though it may not be a trust or society?

iv) Whether in the facts and circumstances of the case, the impugned orders have erred in holding that the appellant exists for the purpose of profit and have ignored categorical evidence which shows that the appellant institution exists solely for educational purpose?

3. It has been brought to our notice that the Commissioner of Income Tax had passed order dated 24.04.2008 under Section 263 (1) of the Act revising the order of the Assessing Officer dated 27.12.2006 (Annexure A-2) and issued directions to conduct detailed inquiry and collect reliable, cogent and corroborative evidence on the issue of exemption of income under Section 10 (23C) (iiiad) of the Act of the amount which had been claimed for exemption of income. The assessee had challenged the said order by filing the income tax appeal and the Tribunal had dismissed the same on 12.06.2009 (Annexure A-5) alongwith the connected appeal for the assessment year 2003-2004.

4. It is pointed out that thereafter the Assessing Officer in pursuance to directions issued by the Commissioner came to the conclusion that the assessee's society solely existed for the purpose of profit and the exemption claimed under Section 10 (23C) (iiiad) of the Act was denied, which was to the tune of ₹3,04,893/- by passing the assessment order dated 06.08.2009. The matter was then taken to the Commissioner of Income Tax in the appeals, who upheld the denial of the exemption vide order dated 19.03.2012. The matter was then taken to the Tribunal by filing ITA No.3476/Del/2012, which has now been allowed on 03.02.2017. The Tribunal as such has granted the

benefit and allowed the claim of the assessee for exemption under Section 10 (23C) (iiiad) of the Act.

5. We are informed that the revenue as such has preferred not to file an appeal against the said order. Resultantly, once on factual aspect the matter has been adjudicated upon and decided in favour of the assessee, we feel that the consideration of the questions referred in para No.9 of the appeal would not be required in the facts and circumstances.

6. Accordingly, the present appeal is disposed of as having been rendered infructuous.

(G.S. SANDHAWALIA)
JUDGE

(LAPITA BANERJI)
JUDGE

29.11.2023
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No