IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16464 OF 2025

Godavari Shikshan Prasarak
Mandal Sindhi .. Petitioner

Versus

Commissioner of Income Tax
(Exemption), Pune and Ors. .. Respondents

Adv. Sanket Bora*, with Adv. Vidhi Punmiya & Adv. Amiya Das, i/b SPCM Legal, for the Petitioner.*

Adv. A.K. Saxena*, for the Respondents-Revenue.*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.

DATE: DECEMBER 9, 2025

P. C.

1. Rule. Respondents waive service. With the consent of the parties, Rule is made returnable forthwith and heard finally.

2. The above Writ Petition is filed challenging the order dated 11th July 2025 passed by Respondent No.1. By the impugned order, the 1st Respondent directed the Petitioner to deposit 15% of the demand as a condition precedent for granting a stay pending the disposal of the Appeal filed by the Petitioner before Respondent No.3.

3. According to the Petitioner, the entire demand ought to have been stayed for two reasons. Firstly, the Petitioner is an educational institution/trust which is wholly funded by the State Government, and hence, its income was exempt under Section 10(23C)(iiiab) of the Income Tax Act, 1961 (for short "IT Act"). Secondly, in any event, even assuming that the Petitioner was not entitled to the said exemption, what could be taxed was only income and not the gross receipts of the Petitioner. In other words, what could be taxed was only income after giving a deduction of the expenditure incurred. In the present case, the expenditure incurred by the Petitioner has been wholly ignored, and the gross receipts have been taxed as income in the hands of the Petitioner. On these two grounds, the impugned order has been assailed in the present Writ Petition.

4. We have heard learned Counsel for the parties. We have also carefully perused the papers and proceedings in the above Writ Petition as well as the impugned order.

5. In the impugned order, the 1st Respondent has recorded that the Assessee in its Return for A.Y. 2020-2021, claimed that it is a Trust registered under Section 12A. This is factually incorrect as the Petitioner is not registered under Section 12A with the Income Tax Department. This fact is also admitted before us. The 1st Respondent, thereafter, goes on to hold that though the Petitioner claims that it was eligible for exemption under Section 10(23C)(iiiab), in Schedule IE-3: Income and Expenditure statement [applicable for Assessees claiming exemption under Section 10(23C)(iiiab) or 10(23C)(iiiac)] was not filled out by the Petitioner. The 1st Respondent, therefore, came to the conclusion that the Assessing Officer has rightly pointed out that the claim for exemption under the said Section was not made by the Assessee in the Income Tax Return. It is on this basis that the 1st Respondent did not grant the stay to the entire demand but directed the Petitioner to deposit 15% thereof in 12 equal monthly instalments on or before the 10th of each month starting from August 2025.

6. Though we find that it is factually correct that the Petitioner is not registered under Section 12A, nor has it filled Schedule IE-3: Income and Expenditure statement [applicable for Assessees claiming exemption under Section 10(23C)(iiiab)], what the 1st Respondent has missed is that the Assessing Officer has brought gross receipts to tax and not the income of the Petitioner. In the Income Tax Return, the Petitioner claimed income of Rs.1,83,33,150/-, and also set out the expenditure of Rs.1,84,34,140/- incurred. Before bringing any income to tax, the Assessing Officer ought to have taken into consideration the expenditure incurred by the Petitioner. This has been totally missed by the authorities. Once this is the case, we find that the Petitioner has made out a case for staying the entire demand against it. This is more so when we consider that the Petitioner is an Educational Trust, which is fully funded by the State Government.

7. Accordingly, we hereby set aside the impugned order dated 11th July 2025, and direct that till the disposal of the Appeal filed by the Petitioner, and which is pending before Respondent No.3, the entire demand against the Petitioner shall remain stayed.

8. Rule is made absolute in the aforesaid terms, and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

9. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.] **[B. P. COLABAWALLA, J.]**

Darshan Patil