INCOME OF UNIVERSITY OR OTHER EDUCATIONAL INSTITUTIONS U/S 10(23C)

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Brief Introduction and Historical Background

Overview of provisions related to Educational Institutions

- Section 2(15) of I.T. Act, 1961
- Section 10(23C)
  - 10(23C)(ab)
  - 10(23C)(ad)
  - 10(23C)(vi)
- Provisos to Section 10(23C) - There are Eighteen provisos to Section 10(23C)

Pre-requisite conditions

- Existence of University or other educational institutions.
- Solely for educational purposes.
- Not for the purposes of profit.
- Wholly or substantially financed by the government

  or

  Annual receipt does not exceed the amount prescribed or

  Approved by the prescribed authority.

Existence of University or other educational institutions

- Meaning of existence
- Meaning of Educational purposes
- Other Educational Institutions
- Whether a trust or society or Sec 8 of Companies Act 2013 can claim exemption u/s 10(23C)?

Solely for educational purposes

- What is the expression ‘solely’ ?
- Position when there are several objects along with educational objects
- Objects v. Activity

- *Aditanar Educational Institution v Additional Commissioner of Income Tax [1997] 224 ITR 310(SC)*
- *American Hotel and Lodging Association Educational Institute v CBDT & Ors.[2008]301 ITR 86(SC)*

Not for the purposes of profit - What it means?

Leena Trust started Educational Institutions in 2013. The Net profits as per the Income and Expenditure of the said Trust for the last five years are as follows -

		Amount (in Rs)	Gross Receipt
(i)	2017-18	6 Crores	20 Crores
(ii)	2016-17	3 Crores	12 Crores
(iii)	2015-16	2.5 Crores	10 Crores
(iv)	2014-15	1 Crore	6 Crores
(v)	2013-14	20 lakhs	3 Crores

The return of income filed for the aforesaid assessment years shows excess of application over income. Discuss

Surplus is a bar to claim exemption u/s 10(23C)?

- *Aditanar Educational Institution v Additional Commissioner of Income Tax [1997] 224 ITR 310(SC)*
- *Queen's Educational Society vs CIT (2015) 372 ITR 699 (SC)*
- *Chief Commissioner of Income Tax vs St. Peter's Education Society (2016) 385 ITR 66 (SC)*
- *Vishvesvaraya Technological University vs Asstt. CIT (2014) 362 ITR*

Wholly or substantially financed by the government Sec 10(23C)(iiiab)

- Meaning

Recent Changes

- Amendment made by Finance (No.2) Act, 2014
- Amendment made by Finance (No.7) Act, 2017

- CIT v Indian Institute of Management (2011) 196 Taxman 276 (Kar)
- *Vishvesvaraya Technological University vs Asstt. CIT (2014) 362 ITR*
- *B.M. Sreenivasaiah Educational Trust (2015) 372 ITR (Kar)*

Annual Receipts less than limit

- Annual Receipts less than limit – Sec 10(23C)(iiiad)
- CIT vs Children's Education Society (2013) 358 ITR (Kar)

Approved by the prescribed authority Sec 10(23C)(vi)

Prescribed Authority has approved Leena Trust Educational Institution under Section 10(23C)(vi) upto the year ending 31.3.2018. Subsequently application was filed for seeking approval for the year 2018-19 and onwards. The said prescribed authority has rejected the application for the following reasons –

i. The application was filed belatedly, no condonation was sought.
ii. The said Educational Institution has paid remuneration to the Trustees.
iii. The rent paid to the specified person is much more than the market prevailing price.

Discuss the case.

Trust/Society/Sec 8 Company

- Whether have to engage in Education to claim exemption?
- Source of Income is important

Foreign Universities in India

- Whether Sec 10(23C) applies to Foreign Universities in India ?

Other important matters

1. Is Affiliation to any University necessary ?
2. Overseas expenses
3. Position of newly established or start up institutions
4. Income from other sources
5. Exemption to be evaluated every year?

Contd.

6. Incidental activity for education allowed ?
7. Whether violation u/s 13 could result in denying exemption?
8. Running coaching classes for Examination.
9. Running Educational Institution vs. financing them

Important case Laws

1. *T.M.A. Pai Foundation v State of Karnataka (2002) 8 SCC 481 (SC)*
2. *Aditanar Educational Institution v. Addl. CIT (1997) 224 ITR 310 (SC)*
3. *American Hotel & Lodging Association v CIT (2008) 301 ITR, 170 Taxman 306 (SC)*
4. *Addl. CIT v Surat Art Silk Cloth Manufacturers Association (1980) 121 ITR (SC)*
5. *Sanatan Dharam Shiksha Samiti v. Chief Commissioner of Income-Tax, Panchkula (2012) 19 Taxman 87 (Punj & Har.)*
6. *Pinegrove International Charitable Trust v. Union of India (2010) 327 ITR, 188 Taxman 402 (Punj & Har)*

Important case Laws

7. *CIT vs Queens Educational Society (2009) 177 Taxman 326 (Uttarkhand) reversed by*
8. *Queens Educational Society v. CIT (2015) 231, Taxman 286 (SC)*
9. *Pinegrove International Charitable Trust v. Union of India (2010) 188, Taxman 402 (Punj & Har)*
6. *St. Lawrence Educational Society (Regd) v. CIT (2011) 197 Taxman 504 (Del)*
7. *Maa Saraswati Educational Trust v. Union of India (2010) 194 Taxman 84 (H.P)*
8. *Kashatriya Sabha Maharana Partap Bhawan v. Union of India (2010) 194 Taxman 442 (Punj & Har)*
9. *Arvind Bhartiya Vidhyala Samiti v. Asst. Commissioner of I.T, Circle -4, Jaipur (2008) 173 Taxman 119*

Income of Hospital or Other Institutions u/s 10(23C)

Brief Introduction

- Meaning of Hospital/ Other Institution
- Meaning of Philanthropic purposes – what it means?
- Whether treatment of in-patient is necessary to claim exemption?

Applicability to Educational Institutions and Hospitals

- Accumulation of Income
- Investment
- Audit of Accounts
- Anonymous Donations

THANK YOU