

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. LALIET KUMAR, JUDICIAL MEMBER  
AND DR. M. L. MEENA, ACCOUNTANT MEMBER**

**I.T.A. No. 583/Asr/2016  
Assessment Year: N/A**

M/s The Oxford Educational & Charitable Society (Oxbridge World School, Kotkapura) Hira Singh Nagar, Kotkapura, Faridkot (Punjab) [PAN: AABTT6670Q] <b>(Appellant)</b>	<b>Vs.</b>	CIT(E), Chandigarh.  <b>(Respondent)</b>
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<b>Appellant by</b>	<b>Sh. Ashwani Kumar, CA.</b>
<b>Respondent by</b>	<b>Sh. J.S. Kahlo, CIT DR</b>

<b>Date of Hearing</b>	<b>12.07.2021</b>
<b>Date of Pronouncement</b>	<b>31.08.2021</b>

**ORDER**

**Per Dr. M. L. Meena, AM:**

This appeal of the assessee trust is directed against the order dated 21.09.2016 passed by the CIT(E). The assessee trust has raised the sole ground of appeal which read as under:

*“1. That the order u/s 10(23C) (vi) of the Income Tax Act, 1961 by the Ld. Commissioner of Income Tax (Exemptions), Chandigarh is against law and facts on the file in as much as he was not justified to arbitrarily hold that the appellant society*

*does not fall under the purview of exemption u/s 10(23C) (vi) of the Income Tax Act.”*

1. Brief facts
2. The Appellant is a society registered under the society registration Act 1860 and is running a school in the name of Oxbridge World School at village Dhilwan on Kotakapura to Bathinda Road.
3. The Appellant had earlier filed an application for registration u/s 12AA of the Income Tax Act 1961 however, the said application was rejected by CIT(E). Feeling aggrieved by the rejection of the application u/s 12AA, Appellant filed an appeal before the Income Tax Appellate Tribunal. The said appeal of the Appellant was dismissed by the Tribunal by passing the following order.

“2. We have heard both the parties and perused the relevant records available with us, especially the impugned order passed by learned CIT, Bathinda, and the documentary evidence produced by the assessee in the shape of paper book and our findings are as under: I.T.A. No. 26(Asr)/2011 I. The assessee-society filed an application for registration under Section 12AA of the Act on 28.05.2010. Learned CIT, Bathinda, called the assessee to verify the genuineness of the activities of the assessee-trust on 01.07.2010 along with complete set of books of account and other relevant documents for the last three years but none attended in response to the said notice.

Learned CIT, Bathinda, re-fixed the case for hearing on 02.08.2010 and again none attended the proceedings on the said date. The case of the assessee was again re-fixed for hearing on 08.10.2010 but on the said date, Sh. Avanta Kumar Jain, Advocate, attended the proceedings on behalf of the society and requested for adjournment and the case of was adjourned for 18.10.2010. Again none attended the proceedings on 18.10.2010 and the case was again fixed for hearing on 18.11.2010. **On 18.11.2010, again none appeared before the learned CIT, Bathinda, and due to non-cooperation of the assessee-trust, it was not possible for learned CIT, Bathinda, to verify the source of income and its application.** II. Keeping in view the aforesaid opportunity given to the assessee for substantiating its claim, neither assessee nor his authorized representative appeared before him nor satisfied learned CIT, Bathinda, about the genuineness of the activities of the trust or institution and even did not join in the inquiry, which was required to be completed by the learned CIT, Bathinda, on the genuineness of the objectives as well activities of the trust. III. On the report of Assessing Officer, learned CIT, Bathinda, noticed that the Assessing Officer had asked the assessee-society to produce some of the donors for the verification of donations made by them but the assessee failed to produced the donors within the prescribed time. Perusal of the list of donations received from the general public, it is noticed that all the donations amounting to Rs. 33,71,800/- were received only in single month i.e. June, 2009 and also all the donations have been received in cash except in some cases where these have been received through drafts for 21,000/-. The genuineness of these donors cannot be ascertained without their examination/production before learned CIT, Bathinda, and in the absence of the same, it is established that the amount introduced as donations by the assessee are the income of the assessee-trust from the activities that are not charitable and are in the nature of trade, business or commerce. The learned CIT, Bathinda, is also of the view that the works done by the assessee- society are not directly related to the main aims and objects of the assessee-society. IV. Keeping in view the facts and circumstances explained above, we are of the view that learned CIT, Bathinda, has afforded sufficient opportunity to the assessee-society to attend the proceedings and produce the documentary evidence regarding charitable activities undertaken by it

**but the assessee-society failed to attend the proceedings and produce the necessary evidence as required by learned CIT, Bathinda.** V. Keeping in view the provisions of Section 12AA of the Act, the Commissioner, on receipt of application for registration of a trust or institution shall call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary. After satisfying himself about the objects of the trust or institution and the genuineness of its activities, he shall pass an order in writing registering the trust or institution and if he is not satisfied then he can pass an order in writing refusing to register the trust or institution after giving reasonable opportunity of being heard to the applicant-society.

VI. In the present case also, as mentioned above, learned CIT, Bathinda, has given sufficient opportunity to the assessee for producing the evidence for substantiating its claim but the assessee failed to do so. In the absence of any evidence as required by learned CIT, Bathinda, how the authority can satisfy himself about the genuineness of the activities of the trust or institution. It is within the purview of learned CIT, Bathinda, to call for any documentary evidence or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of the activities of the trust or institution. It is also within the power of learned CIT, Bathinda, to make any type of inquiry as he may deem necessary on the subject to satisfy himself about the genuineness of the activities of the trust before issuing registration to the trust or institution.

VII. We hold that merely filing an application for registration under Section 12AA of the Act and showing in writing that the aims and objects of the assessee trust are charitable, are not sufficient for granting registration to the society under Section 12AA of the Act until and unless the authority, who grants the registration, satisfies himself that the activities of the trust or institution are genuine or not. To satisfy himself he can make such inquiry as he deem necessary. There is no bar under any provision of law that the authority cannot make an inquiry about the genuineness of the activities of the society trust or institution. Like the case on hand, in which the assessee-

society remain non-cooperative and has not filed any documentary evidence, as required by learned CIT, Bathinda. The documentary evidence filed by the learned counsel for the assessee along with the case-laws are not helpful to the assessee because the case-laws relied upon by him are not identical to the facts of the present case. VIII. In view of the foregoing discussion, we are of the view that the impugned order dated 29 th November, 2010 passed under Section 12AA(1)(b)(ii) of the Act by learned CIT, Bathinda, is a well order and deserves to be upheld. Accordingly, we uphold the impugned order dated 29 th November, 2010 and dismiss the appeal filed by the assessee.”

4. It was a case of the Appellant that the Appellant had filed an MA against the dismissal order of the appeal before the Tribunal.
5. The Appellant had filed fresh application u/s 10(23C) (vi) of the Income Tax Act 1961 for grant of exemption / approval on 21.09.2015 with the Respondent.
6. The CIT(E) had rejected the application of approval u/s 10(23C) (vi) vide order dated 21.09.2016.
7. The Id. AR for the assessee had submitted that the CIT(E) in the order itself has mention the objects of the assessee in para 2 in the following manner.
8. The Id. AR had submitted that the assessee is running the school in the name of Oxbridge World School and is affiliated to CBSE. It was submitted that the assessee has furnished the details the certificate granted to the society by

- the CBSE alongwith the application for approval with the CIT(E). The letter affiliation granted by the CBSE is placed at page 15 of paper book.
9. The Id. AR had submitted that the CIT(E) has wrongly rejected the application for approval on the 3 grounds namely, 1) that the appellant has taken unsecured loan from the president and members of the society to whom the Appellant is paying the interest @ 9% and 12%, 2 ) the appellant had acquired the buses and the surplus fund generated was utilized to generating the additional source of income in the shape of transportation fee. And 3) the appellant is paying meagre amount of salary to the teachers in violation of the 6<sup>th</sup> pay commission and thus compromising the educational of the school.
- 10.The Id. AR had
- 11.Feeling aggrieved by the order passed by the CIT(E) the assessee Appellant is an appeal before us on the grounds stated hereinabove.
- 12.At the outset the Id. AR had submitted that the assessee was into imparting of education as is discernible from the object of the assessee mentioned in the memorandum of association and reproduced in para 2 of the impugned order. It was further submitted that the assessee was solely established for

the purpose of education and the CIT(E) has not brought on record any of the activities which in his estimation was not educational. The ld. AR had written submission on 12.07.2021 before the Bench as under:

*“The present appeal has been filed against action Ld. Commissioner of Income Tax (Exemption), Chandigarh in arbitrarily denying the registration u/s 10(23C)(vi) of the Income Tax Act, 1961 (the “Act”) to the appellant society.*

*Facts in brief are that the appellant is a society registered under Society Registration Act, 1860 on 29.05.2009 and running a school in the name of Oxbridge World School at Village Dhilwan on Kotakapura to Bhatinda Road. The appellant filed an application for registration u/s 10(23C)(vi) of the Act on 21.09.2015 and Ld. Commissioner of Income Tax (Exemption), Chandigarh vide order dated 21.09.2016 rejected the claim of the appellant society.*

*The appellant society has been created only for educational purposes and not purposes of profit as is clear from perusal of copy of Memorandum & Articles of Association (placed at pages 1-7 of the Paper Book). The Ld. CIT has rejected the claim of the appellant society mainly on three grounds which are being discussed herein below:*

*(i) The Ld. CIT has observed that the appellant society is paying interest on loans raised from its members and this tantamounts to benefit being provided to members who have interest in the society (Chart has been reproduced by Ld. CIT in Para 7 at page 5 of his order). In reply, it is respectfully submitted that funds raised from members have been used solely for the purpose of running educational institution and*

*there is no charge made by the Ld. CIT that funds raised were used for any purpose other than running the school.*

*Interest has been paid on the loans raised to three trustees at the rate of 9% and one trustee at the rate of 12%. Your Honors will appreciate, the interest paid is much lower than the market rate and it cannot be said that any undue benefit has been passed to the members. If the loan was raised from any Financial Institution, the rate of interest in those years was much more than 14% and also required security, whereas these loans are unsecured loans.*

*(ii) Secondly, the Ld. CIT has observed in para 8 that society has been acquiring buses:*

*It is respectfully submitted that no doubt, that appellant society has been investing money in purchasing buses, which are also being exclusively used for purpose of running school. The strength of student in financial year 2014-15 was 634 and the number of villages catered to were 66. A list showing names of villages, number of students and distance of village from school is enclosed, just to demonstrate that it was only for purpose of providing education and running school that buses were used. This also did not confer any personal benefit to the members of the trust.*

*(iii) Thirdly, the Ld. CIT has observed that teachers were employed and were paid meagre salaries:*

*It is respectfully submitted that merely because the teachers were paid meagre salaries cannot be ground for rejecting the claim of the appellant society for registration u/s 10(23C)(vi). The Income and Expenditure account filed at page 18 of the Paper Book clearly shows that the appellant society is engaged in no other activity except imparting education. It may not be out of place to mention that the school is affiliated to CBSE and*

*copy of the provisional affiliation dated 15.05.2015 has been filed at pages 15-16 of the Paper Book.*

*Otherwise also it is respectfully submitted that for purposes of registration u/s 10(23C)(vi), the Ld. CIT was only required to examine whether activities of assessee were genuine or not and in the absence of any adverse view Ld. CIT had no reason to deny the registration under said section. For this proposition, Your Honors kind attention is invited to pronouncement of the Hon'ble Chandigarh Bench in M/s Ajit Educational & Public Welfare Society Vs. CCIT reported in 166 ITD 61, copy of the judgement is enclosed.*

*Wherein the Hon'ble Bench has held that:*

*“Provision of section 13(3) are not relevant for purpose of granting approval u/s 10(23C)(vi) and only issue to be examined was genuineness of activities of trust and benefit accruing to persons specified u/s 13(3) cast no reflection on genuineness of activities of trust. ”*

*Similar view has to be adopted by the Hon'ble High Court of Uttrakhand in Maharani Luxmi Bai Memorial Educational Society Vs CCIT in WP(M/S) No. 1108 of 2010, copy of the same is enclosed.*

*It is respectfully prayed that keeping in view the detailed submission made, the claim of the appellant society to be registered u/s 10(23C)(vi) be kindly allowed.”*

13. It was submitted by the Id. AR that the assessee is entitled to the approval u/s 10(23C) (vi) he had relied upon the various decisions referred

in the written submissions as well as during the course of argument before us.

14. On the other hand, the Id. AR for the revenue relied upon the order passed by the CIT exemption, the Id. AR drawn our attention to the order passed by the CIT exemption where the CIT exemption in paragraph 7 to 9 had held as under

*“7. Notwithstanding the above the perusal of the financial statements, reveal that the society has received unsecured loan from the President, Executive Members and Chief Patron of the Society and interest has been paid to them against the loan received. The details of interest paid is tabulated as under:*

	<i>F.Y. 2012-13</i>	<i>F.Y. 2013-14</i>	<i>F.Y. 2014-15</i>
<i>Smt. Amaiyt Kumrri, Exec. Member</i>	<i>Rs. 57,847/-</i>	<i>Rs. 62,533/-</i>	<i>Rs. 67,598/-</i>
<i>Sh. Deepak Singh Monga, President</i>	<i>Rs. 48,041/-</i>	<i>Rs. 52,741/-</i>	<i>Rs. 57,013/-</i>
<i>Sh. Desa singh Monga, Chief Patron</i>	<i>Rs. 1,14,840/-</i>	<i>Rs. 1,24,466/-</i>	<i>Rs. 1,34,548/-</i>
<i>Smt. Prem Rani, Exec. Member</i>	<i>Rs. 71,865/-</i>	<i>Rs. 79,626/-</i>	<i>Rs. 88,226/-</i>

*The above shows the benefits are being provided to the members having substantial interest in the society, in the form of payment of interests @ 9% p.a. to first three and @ 12% p.a. to Smt. Prem Rani on loans received, which is in violation to section 13(1)(c) of the Income tax Act, 1961.*

*8. The quantitative extract of Gross receipt, Net Surplus and addition made to Van, Bus etc. for F.Y. 2012-13 to F.Y. 2014-15 is as under, as revealed by the financial statement submitted by the applicant:-*

<i>F.Y.</i>	<i>Gross receipt</i>	<i>Net Surplus plus Depreciation claimed</i>	<i>Addition in Van/ Buses etc.</i>
2012-13	98,04,703/-	34,65,687/-	18,47,434/-
2013-14	98,52,930/-	31,89,167/-	56,42,062/-
2014-15	1,31,02,919/-	40,48,288/-	33,79,092/-

*The extract above shows that the net surplus together with depreciation claimed and additions made towards acquiring Van/ Buses etc. amounts to 54.18%, 89.62% and 56.68% of the Gross receipts for the F.Y. 2012-13, F.Y. 2013-14 and F.Y. 2014-15 respectively. Further, the additions made towards buildings during F.Y. 2012-13, 2013-14 & F.Y. 2014-15 still remains as less as Rs. 2.2 lakhs, Nil and Rs. 2.7 lakhs respectively. From the above it is clearly held that a major portion of the receipt has been utilized for acquiring vans/ buses and creating surplus and only a meagre amount has been utilized directly for the sole cause of advancement of education which is claimed to be the motive and object of the society. It is evident that surpluses are being generated far in excess of the reasonable surplus laid down by the Apex Court. Moreover, these surpluses are both directly and indirectly being utilized to generate additional sources of income in the shape of transportation fees. The statements of the last three years clearly exemplify that the focus of the Society has entirely been on acquisition of buses. Not only is running buses not covered under the interpretation of 'education' laid down by the Supreme Court in the case of Sole Trustee Lok Sikshan Sansthan it is also a fact that the said activity and the emphasis thereupon was never a stated object behind the establishment of the Society. It is also clear that activities like building, laboratory, library etc. are completely ignored vis-a-vis utilization of receipts and resultant surpluses.*

*9. In the instant case it is further evidenced that contrary to the requirement of affiliation Bye-laws of CBSE, New Delhi members of Governing Body are mostly family members of the same family and do not meet the criterion to have included 2 representatives each of teachers, parents and CBSE as required by the affiliation Bye-laws. Further, it is also evident that the teachers are being paid very meagre amounts and also in contravention of the guidelines of CBSE, New Delhi vis-a-vis payments as per 6th Pay Commission. It not only compromises the quality of education but also reiterates the view that surpluses are not utilized on activities that could lead to better redemption of the ostensible claim of providing education.”*

15. We have heard the rival contentions of the parties and perused the material on record. The section of 10(23C)(vi) provides as under:

Any income received, by any person on behalf of -

"any university or other educational institution existing solely for educational purposes and not for purposes of profit, other than those mentioned in sub-clause (iiiab) or sub-clause (iiiad) and which may be approved by the prescribed authority."

16. From the bare reading of the provision, it is abundantly clear that if any educational institution solely exists for educational purposes and not for profit, then the approval under section 10(23C) (vi) may be granted.

17. In the present case, the objects of the assessee clearly shows that the assessee was formed for the purpose of imparting education only. Further the affiliation with the central board of secondary education also shows that the assessee continues to impart the education in accordance with the systematics schematic scheme of the board of secondary education to the students. The educational activities of the assessee have not been denied by the CIT exemption while passing the impugned order. The CIT exemption however, as mentioned hereinabove had rejected the application of the approval on 3 grounds mentioned hereinabove.

18. The first ground of rejecting the application was that the assessee has taken the unsecured loan from the president, executive member and chief patron of the society and is paying the interest @ 9% to three person and @ 12% to Smt. Prem Rani and thus the assessee is violating the provisions of section 13(1c) of the Act.

19. The Id. AR, during the course of argument as well as written submission had submitted that the interest paid by the society on the loan was far less than the prevailing interest rate of the financial institutions.

20. In our opinion the Id. CIT(E) has not disputed the fact that the loan taken by the assessee from the patron, executive member and the president of the society were solely utilized for the purposes of educational institution. Further the CIT(E) has not alleged that the loan taken by the assessee was used for any other purposes, other than running the school. In our considered opinion the section 13(1)(c) would only triggered only if the assessee society is exempted u/s 12 of the Income Tax Act 1961. In the present case , the

- exemption/approval is yet to be granted to the appellant society, therefore in our opinion section 13 (1) (c) would not be applicable to the facts and circumstances of the case.
21. There is one more reason for non-application of section 13 (1)(c) of the Act, the provision would be applicable only in case the assessee grant any benefit directly or indirectly to any person referred to in subsection 3 of the 13 Act. In our considered opinion whether paying the interest at the rate of 9%/12% to the above then person was a benefit to the specified person, was required to be examined by the assessing officer during the assessment proceedings and for that purposes it was incumbent upon the assessing officer to bring on record the contemporaneous comparative instances of the similar society indicating that the interest of rate paid by the assessee was far more than that was prevailing in the open market. In the light of the above, the first objection raised by the CIT(E) was without any basis.
22. The second objection raised by the CIT(E) was that the assessee has made addition of van /buses in the financial year 2012-13 to 2014-15, as per table reproduced elsewhere . (Para 8 of the CIT order). Undoubtedly, the assessee has shown the buses in the fixed assets and there were addition of buses for which the amount of Rs.33,79,092/- were spent in the financial year 2014-15 and as per the case of the CIT(E) the assessee is generating addition source of income by utilizing surplus fund in purchasing the buses in the shape of transportation fees.
23. The assessee had filed the income and expenditure account for all the three years and in the income the assessee has shown the fees of Rs.13,09,35,05/-

for the year ending upto 31.03.2015 and the said fees, have been utilized for various purposes mentioned in the income and expenditure. The CIT(E) had calculated the net surplus plus depreciation in the table for an amount of Rs.40,48,288/- by including the depreciation of Rs.38,11,488/- and surplus of Rs.23,6800/-. In our opinion the assessee is entitled to the claim of depreciation on the fixed assets and was not restricted to only to the buses but was also relatable to the other fix assets as per schedule 5 of the balance sheet. However, nonetheless the facts remains the assessee was only having of actual surplus of Rs.2,36,800/- (after claiming depreciation). In our view, no fault can be found in the computation of the assessee. In our view, none of the head mentioned by the assessee on the expenditure side shows the utilization of the fund for any purpose other than education.

24. In our considered opinion generation of surplus fund by the educational institution is not a taboo. The Hon'ble Apex Court in the case of Queen's Educational Society vs. CIT [2015] 55 taxmann. Com.255 (SC) has held that when surplus is ploughed back for educational purpose, the educational institutions exist solely for educational purposes and not for purposes of profit. The Apex Court further approved accumulation to the tune of 15% of its total income pertaining to the relevant assessment year as per Sec.11(1)(a) of the Act and laid down the following principles.

"11. Thus, the law common to Section 10(23C) (iiiad) and (vi) may be summed up as follows:

(1) Where an educational institution carries on the activity of education primarily for educating persons, the fact that it makes a surplus does not lead to

the conclusion that it ceases to exist solely for educational purposes and becomes an institution for the purpose of making profit.

(2) The predominant object test must be applied - the purpose of education should not be submerged by a profit making motive.

(3) A distinction must be drawn between the making of a surplus and an institution being carried on "for profit". No inference arises that merely because imparting education results in making a profit, it becomes an activity for profit.

(4) If after meeting expenditure, a surplus arises incidentally from the activity carried on by the educational institution, it will not cease to be one existing solely for educational purposes.

(5) The ultimate test is whether on an overall view of the matter in the concerned assessment year the object is to make profit as opposed to educating persons."

25. Hence, in view of the law laid down by the Hon'ble Apex Court in Queen's Educational Society vs. CIT (supra), we are of the opinion that no fault can be found in utilization of surplus fund by the assessee for the purposes of buying the buses / transportation. Admittedly, the buses are ferrying to 66 villages and transporting to the students to the school. In the absence of buses the quality education would be a pipedream and would not be a reality. In our considered opinion the education per se cannot be given a pedantic or narrow interpretation and it should be given the wide interpretation so that all the ancillary but necessary activity would form the part of education. The overall development of student should be the aim and object of the student and it should not be restricted to academics but it

should also take care of sports, scientific temperament, psychological development character building, nationalism, civic sense etc. In our view in the absence of necessary transport facility, the students will not be able to attend school regularly and punctually. Therefore, the provision for transportation is sine qua non and is integral part of imparting education. In view of the above, the objection of the CIT(E) is devoid of any merit.

26. The last objection raised by the CIT(E) was that the assessee is not paying the sufficient salary to the teachers and thereby violating the CBSE guidelines by not paying the 6<sup>th</sup> pay commission salary.

27. In our considered opinion the scope and ambit of the verification u/s 10(23C) (vi) was only to verify whether the assessee was established / running solely for the purpose of education or not. Once the CBSE grant affiliation to the assessee, then it is for the CBSE to ensure compliance of the terms and condition of attached with the affiliation. Undoubtedly, the assessee was into imparting of solely for education purposes and this aspect has not been denied by the CIT(E). In our considered opinion payment of the salary to the teacher in violation of 6<sup>th</sup> pay commission cannot be a ground to deny the approval u/s 10(23C) (vi) of Income Tax Act 1961. Recently, the coordinate bench in the matter of Dr. Madan Lal Atri had held that the scope and ambit of the enquiry at the time of registration should be confined to find out whether the activity of the assessee are charitable and genuine in nature and not. The CIT(E) should not expand the horizon for the purposes of finding whether the assessee is following the conditions laid down by the other Act at the time of approval / affiliation. In the said decision of Dr. Atri we had held as under: para 36 to 40:

36. In our considered opinion it was incumbent upon the Commissioner exemption to seek the response of the assessee, after giving the Show cause notice , in the light of our conclusion drawn by us in paragraph 31 (supra). Neither any enquiry was made in this regard nor any show cause notice was given on the applicability of these laws/ permission/ sanction nor any opportunity of hearing was given to the assessee. Therefore the action of the CIT(A)(EXEP) can not be countenanced and is not in accordance with law.

37. In our considered opinion the Commissioner exemption can only ask for the compliance of other laws which are material for fulfilment of the objects of the assessee. The Commissioner exemption should keep in mind that the scope and ambit of the enquiry under the Act is only limited. The Commissioner exemption cannot look into whether the approval or permission was rightly given or not.

38. Further we are of the opinion once the affiliating Central Board of Secondary Education, which is a specialized and designated authority for the purpose of ensuring the quality , standard of education and is further bestowed with the responsibility to ensure safety, hygiene, potable water, health, building norm etc and once it or any other equivalent body had granted the affiliation to the assessee then the Commissioner exemption cannot sit in appeal against the affiliation granted to the assessee by the board . The expert body in the field of education, in our opinion is affiliating board and once affiliation is granted then the authorities and approval/permission, which had already been examined by the board should not be a subject matter of fresh examination by the Commissioner exemption.

39. The purpose of grant of registration is to ensure that the assessee is primarily into charitable activities as defined under section 2(15) of the Act and for those purposes, Commissioner exemption should make enquiries only. The Commissioner exemption should not use this opportunity to extend its authority beyond Income Tax Act i.e in the sphere of the other authorities under different laws or sitting in judgment against permission/ approval given under different laws, as a super Cop . As in our opinion it is for the other authorities to examine whether the assessee is subjected to provision of law and is required to comply the relevant provision of law. The Authorities created under various ACTS should function within their respective domain and should not encroach or interfere in other areas, this is necessary for

smooth functioning of various organs of state. Though Section 12AA of Act has been widely worded “any other law” however the same has been given restricted or narrowed by the other words used in the section namely “ as are material for the purpose of achieving its objects ”. Therefore before embarking upon any enquiry by the Commissioner exemption, it is sine qua non(essential) to inform the assessee as to which are the various laws under which the assessee should have the approval/permission before seeking the registration.

40. The Commissioner Exemption should keep in mind that various approvals/permission cannot be sought from the assessee or in other words it is not possible for the assessee to even apply and seek approval/permission at the stage of registration of the trust under section 12AA, as those approvals/permission can only be granted after the setting up or commencement of the charitable activities.”

28. In the light of the above, the order passed by the CIT(E) is required to be quashed. CIT(E) is directed to grant approval, to the assessee from the date of application i.e. 21.09.2015 u/s 10(23C) (vi) of Income Tax Act 1961 and in view of Reham Foundation LKO.\* [2019] 111 taxmann.com 379(Allahabad).

29. In the result, the appeal of the assessee is allowed.

**Order pronounced in the open court on 31.08.2021**

**Sd/-**

**(Laliet Kumar)  
Judicial Member**

**Sd/-**

**(Dr. M. L. Meena)  
Accountant Member**

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Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent

- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By Order