(2009) 02 P&H CK 0175

In the Punjab And Haryana At Chandigarh

Dr. Maharaj Krishana Kapur Educational Charitable Trust and Management Society — APPELLANT

Vs

Union of India (UOI) — RESPONDENT

Date of Decision : 10-02-2009

Acts Referred:
Income Tax Act, 1961 — Section 10

Citation : (2009) 180 TAXMAN 420

Hon'ble Judges : M.M. Kumar, J;H.S. Bhalla, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—The instant petition is directed against order dated 8-10-2008 (P-1) passed by the Chief Commissioner of Income Tax, Panchkula, declining the prayer of the petitioner for granting exemption u/s 10(23C)(vi) of the Income Tax Act, 1961 (for brevity, ''the Act'') in respect of assessment years 2008-09 to 2010-11. The Chief Commissioner has held that the assessee-petitioner is generating huge surpluses year after year and that accumulation of capital expenditure for the assets of the school out of the income is not adequate to claim exemption as per the judgment of Hon''ble the Supreme Court in the case of Municipal Corporation of Delhi Vs. Children Book Trust, . The Chief Commissioner has also referred to the accounts of the assessee for the last 10 years revealing that the assessee-petitioner is generating substantial surpluses and the percentage of income applied for education purpose is less than the limit prescribed under Clause (a) of 3rd proviso of Clause (23)C of Section 10 of the Act. The details of accumulation of surpluses are apparent from the table which has been incorporated in the impugned order.

2. In our view, the Chief Commissioner has rightly concluded that the assessee-petitioner was required to apply 75 per cent of its income for the educational purposes of the assessee up to the assessment year 2001-02. Thereafter from the assessment year 2002-03, the application of income has to be 85 per cent.

In other words, the assessee-petitioner could accumulate only 15 per cent of the income and if there is any excess accumulation then it has to be applied for the objects of the society within a period of five years. Accordingly, the exemption in respect of the assessment years 2008-09 to 2010-11 was refused.

3. After hearing learned Counsel at a considerable length, we are of the view that there is no legal infirmity in the order of the Chief Commissioner warranting admission of the petition. Accordingly, the writ petition fails and the same is dismissed.