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March 25, 2015, New Delhi, INDIA

**Profits Not a Criteria for Denying  
Tax Exemptions to Educational  
Institutions – Supreme Court**

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**Profits Not a Criteria for Denying Tax Exemptions to Educational Institutions – Supreme Court**

The Supreme Court of India has finally laid to rest doubts on availability of tax exemptions to charitable institutions under Section 10(23C) (iiiad) of the Income Tax Act, 1961 (“**IT Act, 1961**”). In its recent judgement of March 16, 2015 in the matter of M/s. Queen's Educational Society vs. Commissioner of Income Tax (Civil Appeal No.5167 of 2008), the Apex Court has set aside the judgement of the High Court of Uttarakhand, which had erroneously held that the exemptions granted under Section 10(23C) (iiiad) of the IT Act, 1961, would no longer be available to educational institutions making, “*large profits*”, even though it may plough such profits back into the purchase of assets for education. The net surplus of the educational institution of approximately Rs. 6.5 Lacs and Rs. 8 Lacs, for the financial years 2000-01 and 2001-02, was deemed enough by the High Court of Uttarakhand, to deny tax exemption under Section 10(23C) (iiiad) of the IT Act, 1961.

Overruling the aforesaid judgment of the High Court of Uttarakhand, the Apex Court held that, “*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*”. The Court went on to clarify that 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. 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.

The Supreme Court however added a word of caution and stressed that it is of great importance that the assessing authorities must continuously monitor from assessment year to assessment year whether such institutions continue

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to apply their income and invest or deposit their funds in accordance with the applicable law. In case it is noted that the charitable institutions are not genuine, or are not being carried out in accordance with all or any of the conditions subject to which approval has been given, such approval and exemption must forthwith be withdrawn.

While the judgement merely reiterates the position of the law under the IT Act 1961, (which was erroneously misinterpreted by the High Court of Uttarakhand), it surely comes as a welcome relief to educational institutions in India seeking tax exemptions under applicable tax laws.

**Feedback**

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