

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHANDIGARH

HYBRID HEARING

BEFORE HON’BLE SHRI LALIET KUMAR, JM
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

- 1. आयकरअपीलसं./ ITA No.1183/CHANDI/2025**
(निर्धारणवर्ष / Assessment Year: 2019-20)
&
2. आयकरअपीलसं./ ITA No.1184/CHANDI/2025
(निर्धारणवर्ष / Assessment Year: 2019-20)

Hydro Engineering College Society VPO Bandla, BO Bandla Bilaspur (HP) – 174001	बनाम/ Vs.	ITO Ward Near LIC Office, Kohitpura Bilaspur (HP) - 174001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AABAH-7658-F		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Vishal Mohan Singh (Sr. Advocate)a/w Sh. Parveen Sharma – Ld. ARs (Virtual)
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Manav Bansal (CIT) - Ld. DR

सुनवाईकीतारीख/ Date of Hearing	:	27-05-2026
घोषणाकीतारीख / Date of Pronouncement	:	02-07-2026

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by assessee for Assessment Year (AY) 2019-20 assails confirmation of quantum addition on merits and consequential levy of penalty u/s 271(1)(c). First, we take up quantum appeal ITA No.1183/Chandi/2025 which arises out of an order of learned Commissioner of Income Tax (Appeals), NFAC [CIT(A)] dated

07.07.2025 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s 147 r.w.s. 144B of the Act on 12.03.2024. The sole grievance of the assessee is denial of deduction u/s 10(23C)(iiiab) and consequential assessment of business income at Rs.987.78 Lacs.

2. The Ld. Sr. Advocate, Shri Vishal Mohan advanced arguments with the help of various documents on record and assailed the denial of impugned deduction to the assessee. It has been stated that the assessee entity is fully funded by the state government / agencies. The Ld. CIT-DR also advanced arguments supporting the orders of lower authorities. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

Assessment Proceedings

3.1 The assessee did not file its return of income. The assessee's case was reopened and a notice u/s 148 was issued by Ld. AO to the assessee on 23.03.2023. The assessee filed return of income on 21.04.2023 declaring 'Nil' income. During the course of assessment proceedings, the assessee furnished copy of its by-laws, Memorandum of Association (MOA), copy of registration certificate and nature of activities being carried out by the assessee-society.

3.2 The assessee-society was stated to be a government institution and affiliated with AICTE, Delhi and HP Technical University, Hamirpur. The assessee was formed under the Societies Act for setting up and imparting education and running an engineering college at Bilaspur. The land on which college was to be constructed was allotted by the Government of Himachal Pardesh and the funds for the construction of

buildings were provided by two entities viz. namely NTPC and NHPC. The college was at construction state during the year under consideration and no income was generated. However, grants were received from time-to-time and prior to expansion thereof, the same was parked in FDR on which some interest accrued to the assessee. The interest was treated as part of the grants and as such, it was to be utilized for the said purpose only. The assessee thus claimed that it was fully financed by state government and therefore, it was eligible for exemption of income u/s 10(23C)(iiiab) which provide that any income received by any person on behalf of any university or other educational institution existing solely for educational purposes and not for purpose of profit and which is wholly or substantially financed by the government would be exempt from tax. The relevant Rule 2BBB of Income Tax Rules provide that the institution shall be considered as having been substantially financed by the government if the government grant to such institution exceeds 50% of the total receipts including voluntary contributions of such an institution during the previous year. The assessee contended that the requirement to claim the exemption was that firstly, the institution should exist solely for education, secondly, it should not exist for the purpose of profit and lastly, it should be wholly or substantially financed by the govt. During the year, the assessee received grant of Rs.5 crores from NTPC besides Govt. grant of Rs. 5 Crores. The time deposit of Rs.11.20 Crores was made from unspent balance of grants and the assessee earned interest on the same.

3.3 The Ld. AO noted that total receipts of the assessee including voluntary contribution was Rs.10.02 Crores which include government grant of Rs.5 Crores. The amount spent for objective of the trust was Rs.14.39 Lacs. Accordingly, Ld. AO held an opinion that government grants were less than 50% of total receipts and show-caused the assessee to treat it as an Association of Persons (AOP). In the absence of any cogent explanation as forthcoming from the assessee, the net gross receipts for Rs.987.78 Lacs (differential of Rs.10.02 Crores less amount spent for objective for Rs.14.39 Lacs) was finally assessed as business income of the assessee.

Appellate Proceedings

4.1 During appellate proceedings, the assessee again reiterated the background in which the grants were received. It was stated that the assessee-society was set up to impart education and run an engineering college at Bilaspur. The land on which the construction of college had to be made was allotted by the State Government of Himachal Pradesh. The two organizations viz. NTPC and NHPC contributed funds for setting up of college. The said funds were given to the assessee for specific purposes i.e., for setting up engineering college. The grants from Government were also received for setting up of engineering college. The college was at under-construction stage during the year and no income was generated. The grants were received and prior to expanding the same, the funds were parked in FDR and interest income accrued to the assessee. The same was treated as part of the grants and as such, it was to be utilized for the

said purpose only. Interest was to be treated as part of the grants only and could not be taxed separately. The attention was drawn to the fact that the case for AY 2018-19 was reopened for the same reasons, however, the returned income of the assessee stood accepted therein. The assessee thus assailed impugned assessment of income by Ld. AO.

4.2 The Ld. CIT, solely going by the fact that the assessee's total receipts were Rs.10.02 Crores and government grants were 49.89% of these receipts, held that the condition of Rule 2BBB were not fulfilled and therefore, the assessee was rightly been denied impugned exemption u/s 10(23C)(iiiab). Aggrieved, the assessee is in further appeal before us.

Our findings and Adjudication

5. The material facts are not in much dispute. The assessee-society has been set up to run an engineering college at Bilaspur. The State Government has allotted the land to the assessee for the said purpose. The main source of funding for the assessee is government grant-in-aid and contribution from NTPC and NHPC and the contributions are exclusively for setting up of college. During this year, the college building was at construction-stage and no income has been generated by the assessee. The assessee's financial statements, as placed on record, would indicate that the only source of funding for the assessee is government grants which are capitalized and revenue grants and accrued interest on unspent grants which are, for the time being, have been parked in FDRs and generated interest income for the assessee.

The perusal of Income & Expenditure Account would show that out of total income of Rs.10.02 Crores, the quantum of grant is Rs.5 Crores whereas the remaining income is interest on SB and FDRs only. No other income has accrued to the assessee. Out of the total income, assessee has expended Rs.14.39 Lacs which are mainly of administrative in nature. The surplus of Rs.987.78 Lacs has been transferred in Balance Sheet under the head revenue grants. It is thus crystal clear that the assessee does not have any other source of funding except Government Grants and contribution from NTPC / NHPC. In our considered opinion, the interest accrued on the grant was merely incidental to these grants and would bear the same colour and character as that of the sourced grants. The same would not constitute an independent source of income for the assessee. On these facts, the inevitable conclusion would be that the assessee was fully financed by the Government and the condition of Rule 2BBB stood fully satisfied. Accordingly, we direct Ld. AO to grant impugned exemption u/s 10(23C)(iiiab) as claimed by the assessee and accept the returned income of the assessee. The appeal stand allowed.

6. In ITA No.1184/Chandi/2025, the assessee is aggrieved by confirmation of consequential penalty u/s 270A. Since the quantum appeal has been allowed, the consequential penalty would not survive. We order so.

7. Both the appeals stand allowed.

Order pronounced on 02nd July, 2026.

-Sd-
(LALIET KUMAR)
JUDICIAL MEMBER

-Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

^{AS}

Dated: 02-07-2026

आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH