

Supreme Court Fortifies Landmarking Ruling of New Noble Education Trust; Activities Undertaken by Educational Institutions Must be 'Solely' for Education Purpose and Not Profit Oriented

On October 19, 2022, the direct tax law on Public Charitable Trusts witnessed a landmark judicial decision of the Apex court. The Hon'ble Supreme Court through its verdict in the case of *New Noble Educational Society vs. The Chief Commissioner of Income Tax 1 and Anr. Civil Appeal No. 3795 of 2014*, changed the landscape of the direct tax law with respect to educational institutions.

In the Indian Legal System, a decision passed by the Hon'ble Supreme Court is binding on all other courts including smaller benches of the Apex court itself. A Supreme Court judgement carries with it tremendous precedential value and the ratio of these rulings dictates the future cases.

The case of New Noble set forth a precedent that has overruled any earlier interpretations of the word 'solely' in the context of educational

institutions. The ratio in this case had resulted in the dismissal of the predominant test by interpreting the term 'solely' literally.

Moreover, importantly, this decision has overruled previously significant cases such as the *American Hotel and Lodging Association vs. Central Board of Direct Taxes (2008) 10 SCC 509* and *Queen's Education Society vs. Commissioner of Income Tax (2015) 8 SCC 47*.

With the recent judgment in the case of *Baba Bahadur Education Trust*, this interpretation of the Hon'ble Court has been fortified by another ruling of the same court.

Facts of the case

The assessee was engaged in the activity of imparting education. As such, the assessee claimed exemption under section 10(23C) (vi) of the Income tax Act 1961 {hereinafter referred

to as 'The Act'} by submitting the application before the Jurisdictional Commissioner. After perusal of evidence and material on record it was found that the assessee had been earning systematic profits year and after year and, in the relevant year had earned profit up to the extent of 67.81% without depreciation. Due to the same, the Commissioner opined that the activity of the assessee could not have been solely for the purpose of imparting education, therefore, holding that the assessee was not entitled to the benefit/exemption under Section 10(23C) (vi) of the Act, dismissed the application.

Consequently, a Writ Petition was filed before the High Court against such dismissal of application. The High Court disposed of the petition in favor of the assessee, by relying upon the case of *Shri Atmanand Jain Gurukul educational Society (Gujranwala) vs. Chief Commissioner of Income Tax CWP No. 1509 of 2010 dated March 15, 2010*.

Resultantly the matter reached before the Tribunal on appeal.

The Court's Finding

Before delivering its judgment, the Hon'ble Court highlighted the following:

- That in the aforementioned case of Shri Atmanand, the Punjab and Haryana High Court relied on its earlier decision in the case of *Pinegrove International Charitable Trust vs. Union of India and Ors. CWP No.6031 of 2009*.

- That, while rejecting the application of the assessee in the preset case, the Commissioner heavily relied on the decision of the Uttarakhand High Court in *Queen's Educational Society, Haldwani vs. Commissioner of Income Tax (2009) 319 ITR 160*.
- That in the case of *Queen's Educational Society vs. Commissioner of Income Tax (2015) 8 SCC 47*, the Hon'ble Supreme Court set aside the order of the Uttarakhand High Court in the case of Queens Haldwani and approved the decision of the Punjab and Haryana High Court in the case of Pinegrove International.

The Hon'ble Court observed that, however, that these decisions came under deliberation once again in the case of *New Noble Educational Society vs. Chief Commissioner of Income Tax 1 and Anr. 2022 SCC OnLine 1458*, wherein a three-judge bench had not approved the findings of this Hon'ble Court in the case of *Queens Educational Society of 2015*.

The Hon'ble in the present case, greatly relied upon the New Noble ruling, on the basis of which it held that for claiming the benefit of exemption under section 10(23C) (vi), the activity undertaken by the assessee must be solely for education purposes. If the activity has been done for the purposes of profit, then no such exemption can be claimed.



DIRECT TAX



The Hon'ble Court opined, *"Applying the law laid down by this Court in the case of New Noble Educational Society (supra) referred to hereinabove to the facts of the case on hand, the impugned judgment and order passed by the High Court is unsustainable."*

It was noted by the Hon'ble Court that while considering the application, the commissioner specifically found and concluded that as the profit was found to be 67.81% without depreciation and 44.48% with depreciation, the assessee could not have been solely engaged in educational activity, profit based activities were undertaken as well. This finding of the Commissioner had not been disputed by the High Court.

In light of the above stated reasons, the Hon'ble Court set aside the impugned High Court order and adjudicated in favor of the Department.

Source: Supreme Court in Union of India & Ors. vs. Baba Banda Singh Bahadur Education Trust Civil Appeal No. 10511 of 2013 dated April 26, 2023.



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