

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 18<sup>TH</sup> DAY OF JULY, 2014

PRESENT:

THE HON'BLE Mr.JUSTICE N.KUMAR

AND

THE HON'BLE Mr.JUSTICE B.MANOHAR

**INCOME TAX APPEAL NO.483 OF 2009**

**BETWEEN:**

1. THE COMMISSIONER OF INCOME-TAX  
C.R. BUILDING  
QUEENS ROAD  
BANGALORE
2. THE JOINT COMMISSIONER OF INCOME-TAX  
EXEMPTIONS  
RANGE - 17  
C.R. BUILDING  
QUEENS ROAD  
BANGALORE

... APPELLANTS

(BY SRI. K. V. ARAVIND, ADV.,)

**AND:**

NATIONAL LAW SCHOOL OF INDIA UNIVERSITY  
P.B. NO.7021  
NAGARABHAVI  
BANGALORE - 560 072

... RESPONDENT

(BY SRI. S. PARTHASARATHI, ADV., A/W.  
SRI. K. MALLAHA RAO, ADV.,)

THIS APPEAL IS FILED U/S.260-A OF I.T.ACT, 1961  
ARISING OUT OF ORDER DATED 28-04-2009 PASSED IN ITA

NO.1424/BNG/2008, FOR THE ASSESSMENT YEAR 2005-06,  
PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO:

- i) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN,
- ii) ALLOW THE APPEAL AND SET ASIDE THE ORDER PASSED BY THE ITAT BANGALORE IN ITA NO.1424/BNG/2008, DATED 28-04-2009, CONFIRMING THE ORDER OF THE APPELLATE COMMISSIONER AND CONFIRM THE ORDER PASSED BY THE JOINT COMMISSIONER OF INCOME TAX (EXEMPTIONS), RANGE-17, BANGALORE.

THIS APPEAL COMING ON FOR HEARING, THIS DAY,  
**N.KUMAR, J.**, DELIVERED THE FOLLOWING:

### **J U D G M E N T**

The Revenue has preferred this appeal against the order passed by the Tribunal which has granted exemption to the respondent – National law School of India University.

2. The substantial questions of law that has raised in this appeal are as under:

- i) *Whether the Appellate Authorities were correct in holding that the terms 'wholly or substantially financed by the Government' contemplated in section 10(23C)(iiiab) of the Act would include finances and value of infrastructure given to the institution during the previous assessment years and*

*not as per the finance provided during the current assessment year i.e., 0.4% of its total income which would disentitle the assessee to claim exemption under the said section as held by the Assessing Officer?*

- ii) Whether the Appellate Authorities were correct in holding that the entire funds need to be granted by the government if the assessee is in a position to charge fee from the student, the assessee will be entitled to claim exemption u/s.10(23C)(iiiab) of the Act?*

3. The materials on record discloses that the assessee exists only for educational purposes and it has not existed for any private purpose. The institute is controlled by the Board appointed by the Government. Government of Karnataka granted 23 acres of land to the assessee which was valued at the relevant point of time is Rs.50.00 crores. The institution has been built up by the funds granted by the Karnataka Government and UGC to the extent of Rs.8.75 crores upto 31.03.2005. Therefore, the assessee being only the owner and subsequently,

financed by the Government as per legislative sanction given to the university in Schedule-XXIII is entitled to receive any contribution or grant made by the State Government; University Grants Commission or the Central Government; any contribution made by the Bar Council of India; Bar Council of India Trust or the State Bar Councils etc.,

4. In that view of the matter, the findings of the Tribunal that the assessee is subsequently financed by the Government and therefore, the assessee is entitled to the benefit of exemption under Section 10(23C)(iiiab) of the Income Tax Act, cannot be found fault with. Therefore, the substantial question of law is answered in favour of the assessee and against the Revenue.

Accordingly, the appeal is dismissed.

**Sd/-**  
JUDGE

**Sd/-**  
JUDGE

GH