IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 6TH DAY OF FEBRUARY 2026

BEFORE

THE HON'BLE MRS JUSTICE K.S.HEMALEKHA

WRIT PETITION NO. 100630 OF 2024 (T-IT)

BETWEEN:

RANI CHANNAMMA UNIVERSITY
(A UNIVERSITY ESTABLISHED UNDER
SECTION 3(1E) OF THE KARNATAKA
STATE UNIVERSITIES ACT, 2000,
VIDYASANGAMA, NH-04,
BELAGAVI-591156, KARNATAKA,
REPRESENTED BY ITS REGISTRAR,
SMT. RAJASHREE H.JAINAPUR.

...PETITIONER

(BY SRI. ASHOK A. KULKARNI, ADVOCATE)

AND:

1. THE UNDER SECRETARY (ITA-1)
CENTRAL BOARD OF DIRECT TAXES,
(ITA -1 DIVISION),
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,
NORTH BLOCK, NEW DELHI-10001.

2. COMMISSIONER OF INCOME TAX (EXEMPTIONS)
UNITY BUILDING ANNEXE, MISSION ROAD,
BENGALURU-560027, KARNATAKA.

...RESPONDENTS

(BY SRI. M.THIRUMALESH, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH BY A WRIT OF CERTIORARI OR A DIRECTION IN THE NATURE OF CERTIORARI, THE COMMUNICATION U/S 10(46) OF THE ACT BEARING NO. F. NO. 196/24/2021-ITA-1 DATED. 12-12-2023 PASSED BY THE 1ST RESPONDENT IN ANNEXURE-E, FOR BEING ILLEGAL UNLAWFUL, ARBITRARY AND VIOLATIVE OF THE PRINCIPLES OF NATURAL JUSTICE; AND ETC.

THIS WRIT PETITION COMING ON FOR **PRELIMINARY HEARING IN 'B' GROUP** THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MRS JUSTICE K.S.HEMALEKHA

ORAL ORDER

1. The petitioner – University has called in question the communication dated 12.12.2023 (Annexure-E) issued by the first respondent, whereby the application submitted by the petitioner seeking issuance of notification under Section 10(46) of the Income Tax Act, 1961 ('the Act', for short), came to be rejected.

2. **Brief facts of the case:**

   2.1. The petitioner is a statutory University established under Section 3(1E) of the Karnataka State Universities Act, 2000 ('KSU Act', for short), enacted by the State Legislature, and is engaged in imparting higher education for the benefit of the general public.

2.2. The petitioner is a non-profit institution and is statutorily prohibited from carrying on any commercial activity. Its income consists of grants from the State Government, fees collected from students, examination fees, interest on deposits, and other incidental receipts directly connected with its educational objects.

2.3. It is stated that the petitioner was earlier granted registration under Section 12AA and exemption under Section 10(23C)(vi) of the Act.

2.4. The petitioner also submitted an application dated 27.03.2021 before the second respondent seeking issuance of a notification under Section 10(46) of the Act. Pursuant thereto, the petitioner submitted detailed explanations and justifications as called for by the Department.

2.5. However, by the impugned communication dated 12.12.2023 (Annexure-E), the first respondent disposed of the said application without affording the petitioner an opportunity of hearing and without examining the merits of the petitioner's eligibility under Section 10(46) of the Act.

2.6. Aggrieved by the said communication, the petitioner is before this Court.

3. **<u>Contention of the petitioner:</u>**

3.1. Learned counsel for the petitioner contends that the petitioner-institution squarely satisfies all the conditions prescribed under Section 10(46) of the Act and that the impugned communication has been issued in gross violation of the principles of natural justice, without granting an opportunity of being heard.

3.2. It is further submitted that the rejection is based on an erroneous assumption that the registration under Section 12AA or exemption under Section 10(23C)(vi) of the Act bars consideration of an application under Section 10(46) of the Act, which is legally unsustainable.

3.3. In support of the said contention, learned counsel for the petitioner has placed reliance on the judgment of the High Court of Judicature at Telangana, Hyderabad, in ***Telangana State Pollution Control Board, Hyderabad v. Central Board of Direct Taxes and others***[1] *(Telangana State Pollution Control Board)*.

3.4. It is further submitted that the impugned communication is non-speaking, arbitrary, and reflects non-application of mind.

4. *Per contra*, learned counsel appearing for the respondents seeks to justify the impugned communication by contending that the petitioner has already availed exemption under Section 12AA and Section 10(23C)(vi) of the Act and, therefore, is not entitled to a notification under Section 10(46) of the

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[1] W.P.Nos.4834 and 15629 of 2020 disposed of on 26.07.2021

Act. It is contended that the decision is administrative in nature and does not warrant interference.

5. This Court has carefully considered the rival submissions and perused the material on record.

6. At the outset, this Court finds that the impugned communication dated 12.12.2023 has been issued without affording any opportunity of hearing to the petitioner. When an application seeking statutory exemption is rejected, particularly after calling for explanations, adherence to the principles of natural justice is mandatory.

7. Section 10(46) of the Act operates in a distinct field. The High Court of Judicature for the State of Telangana, Hyderabad, in the case of ***Telangana State Pollution Control Board*** (supra), has held at paragraphs 33, 34, 35 and 36 as under:

> *33. Thus, the basic difference between the two provisions of the viz., 10(23C)(iv) and 10(46)*

of the, is that, while under the first provision, it is only a grant of an approval making an assessee eligible to claim exemption without any certainty of exemption being allowed on any income, since it is subject to scrutiny, the latter provision confers benefit of automatic exemption in respect of the specified income of the assessee as notified by the Central Government in the gazette. Thus, under Section 10(46) of the Act, there is a certainty with regard to claim of exemption.

34. The Supreme Court in CCE v. Indian Petro Chemicals (1997) 11 SCC 318 , held that – "if two exemption notifications are applicable in a given case, the assessee may claim benefit of the more beneficial one".

35. In H.C.L. Limited v. Collector of Customs (2001) 9 SCC 83, [LQ/SC/2001/694] *the Hon'ble Supreme Court relying on the judgement in Indian Petro Chemicals (supra), held that – "where there are two exemption notifications that cover the goods in question, the assessee is entitled to the benefit of that exemption notification which gives him greater relief, regardless of the fact that the notification is general in its terms and the* *other notification is more specific to the goods".*

36. In the facts of the present case, though there are two different provisions of the under which the petitioners can claim the benefit, mere fact of petitioners being granted approval under one particular provision of the, namely Section 10(23C)(iv) of the Act, in our opinion, would not disentitle the petitioners/ assessees to seek for being notified under a different provision, as it is for the assessees/petitioners to choose as to which of the provisions would be more beneficial.

8. The existence of registration under Section 12AA or exemption under Section 10(23C)(vi) of the Act does not, by itself, constitute a statutory bar for consideration of an application under Section 10(46) of the Act, and that the competent authority is required to independently examine the eligibility of the applicant and the nature of income for which exemption is sought.

9. The impugned communication does not reflect any such examination on merits. The communication is not speaking and does not advert to the statutory provisions, nor does it consider the nature of income from which exemption is sought.

10. In the circumstances, this Court is of the considered view that the impugned communication cannot be sustained in law. However, this Court refrains from expressing any opinion on the merits or demerits of the petitioner's eligibility under Section 10(46) of the Act, which is required to be examined by the competent authority. Accordingly, this Court pass the following order:

ORDER

i. The writ petition is ***allowed in part.***

ii. The communication dated 12.12.2023 issued by the first respondent (Annexure-E) is hereby ***quashed***.

iii. The matter is remitted to respondent No.1 for fresh consideration of the petitioner's application dated 27.03.2021 seeking issuance of a notification under Section 10(46) of the Income Tax Act, 1961, strictly in accordance with law.

iv. Respondent No.1 shall afford an opportunity of hearing to the petitioner and thereafter pass a reasoned order, as expeditiously as possible.

v. It is made clear that this Court has not expressed any opinion on the petitioner's claim on merits, and all contentions are left open to be urged before the authority.

Sd/-
JUSTICE K.S.HEMALEKHA

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