

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 9593/2013

CHIEF COMMISSIONER OF INCOME TAX, CHANDIGARH

APPELLANT (S)

VERSUS

ST. PETER'S EDUCATIONAL SOCIETY, CHANDIGARH

RESPONDENT(S)

WITH

C.A. No. 9594/2013, C.A. No. 9595/2013, C.A. No. 9596/2013, C.A. No. 9597/2013, C.A. No. 9598/2013, C.A. No. 9599/2013, C.A. No. 9600/2013, C.A. No. 9601/2013, C.A. No. 9602/2013, C.A. No. 9603/2013, C.A. No. 9604/2013, C.A. No. 9605/2013, C.A. No. 9606/2013, C.A. No. 9607/2013, C.A. No. 9608/2013, C.A. No. 9609/2013, C.A. No. 9610/2013, C.A. No. 9611/2013, C.A. No. 9612/2013, C.A. No. 9613/2013, C.A. No. 9614/2013, C.A. No. 9615/2013, C.A. No. 9616/2013, C.A. No. 9617/2013, C.A. No. 9618/2013, C.A. No. 9619/2013, C.A. No. 9620/2013, C.A. No. 9621/2013, C.A. No. 9622/2013, C.A. No. 9623/2013, C.A. No. 9624/2013, C.A. No. 9625/2013, C.A. No. 9626/2013, C.A. No. 9627/2013, C.A. No. 9628/2013, C.A. No. 9629/2013, C.A. No. 9630/2013, C.A. No. 9631/2013, C.A. No. 9632/2013, C.A. No. 9633/2013, C.A. No. 9634/2013, C.A. No. 9635/2013, C.A. No. 9636/2013, C.A. No. 9637/2013, C.A. No. 9638/2013, C.A. No. 9639/2013, C.A. No. 9640/2013, C.A. No. 9641/2013, C.A. No. 9642/2013, C.A. No. 5957/2014, C.A. No. 5040/2016 @ SLP(C) No. 12062/2016.

O R D E R

Leave granted in SLP(C) No. 12062 of 2016.

It is not disputed by the learned Solicitor General appearing for the Income Tax Department and the various counsel who have appeared for the respondents/assesseees in these appeals that the issue involved in these appeals is squarely covered by the judgment of this Court in Queen's Educational Society vs. Commissioner of Income Tax (2015) 8 SCC 47. The matter pertains to the exemption

to the educational institutions (assessee herein) under Section 10(23C) of the Income Tax Act. In the said judgment, the Court summarised the legal position as under:

"11. Thus, the law common to Section 10(23C) (iiiad) and (vi) may be summed up as follows:

(1) 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.

(2) The predominant object test must be applied - the purpose of education should not be submerged by a profit making motive.

(3) A distinction must be drawn between the making of a surplus and an institution being carried on "for profit". No inference arises that merely because imparting education results in making a profit, it becomes an activity for profit.

(4) If after meeting expenditure, a surplus arises incidentally from the activity carried on by the educational institution, it will not be cease to be one existing solely for educational purposes.

(5) 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."

We may record at this stage that there was a difference of opinion among various High Courts on the aforesaid issue. While summarizing the law, this Court approved the judgments of Punjab and Haryana High Court, Delhi and Bombay High Courts and reversed the view taken by the Uttarakhand High Court. Insofar as the judgment of the Punjab and Haryana High Court is concerned, it was

given in the case of Pinegrove International Charitable Trust v. Union of India (2010) 327 ITR 73. The relevant para in this behalf which also states as to how such cases are to be dealt with reads as under:

"25. We approve the judgments of the Punjab and Haryana, Delhi and Bombay High Courts. Since we have set aside the judgment of the Uttarakhand High Court and since the Chief CIT's orders cancelling exemption which were set aside by the Punjab and Haryana High Court were passed almost solely upon the law declared by the Uttarakhand High Court, it is clear that these orders cannot stand. Consequently, Revenue's appeals from the Punjab and Haryana High Court's judgment dated 29.1.2010 and the judgments following it are dismissed. We reiterate that the correct tests which have been culled out in the three Supreme Court judgments stated above, namely, Surat Art Silk Cloth, Aditanar, and American Hotel and Lodging, would all apply to determine whether an educational institution exists solely for educational purposes and not for purposes of profit. In addition, we hasten to add that the 13<sup>th</sup> proviso to Section 10(23C) is of great importance in that assessing authorities must continuously monitor from assessment year to assessment year whether such institutions continue to apply their income and invest or deposit their funds in accordance with the law laid down. Further, it is of great importance that the activities of such institutions be looked at carefully. If they 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. All these cases are disposed of making it clear that revenue is at liberty to pass fresh orders if such necessity is felt after taking into consideration the various provisions of law contained in Section 10(23C) read with Section 11 of the Income Tax Act."

In all those appeals which have come from the High Court of Punjab and Haryana and filed by the Department of Income Tax except one from Gujarat High Court, the High Court has followed its

aforesaid judgment in Pinegrove International Charitable Trust. Since this view stands approved, all these appeals are dismissed.

We, however, make it clear that observations made in para 25, reproduced above, shall apply in these cases.

One appeal is from Gujarat High Court which has also followed the view taken by the Punjab and Haryana High Court in Pinegrove International Charitable Trust, which also stands dismissed.

We also make it clear that the observations made in para 25 in Queen's Educational Society vs. Commissioner of Income Tax (2015) 8 SCC 47 shall be followed.

.....J.  
[A.K. SIKRI]

.....J.  
[R.K.AGRAWAL]

NEW DELHI;  
MAY 10, 2016.

ITEM NO.34

COURT NO.12

SECTION IIIA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 9593/2013

CHIEF COMMNR OF INCOME TAX, CHANDIGARH

Appellant(s)

VERSUS

ST. PETER'S EDUCATIONAL SOC., CHANDGH

Respondent(s)

(with interim relief and office report)

WITH

C.A. No. 9594/2013  
Office Report)C.A. No. 9595/2013  
Office Report)C.A. No. 9596/2013  
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C.A. No. 9605/2013

Office Report)

C.A. No. 9606/2013  
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Office Report)

C.A. No. 9608/2013  
Office Report)

C.A. No. 9609/2013  
Office Report)

C.A. No. 9610/2013  
Office Report)

C.A. No. 9611/2013  
Office Report)

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Office Report)

C.A. No. 9620/2013  
Office Report)

C.A. No. 9621/2013  
Interim Relief and Office Report)

C.A. No. 9622/2013  
Office Report)

C.A. No. 9623/2013  
Office Report)

C.A. No. 9624/2013  
Interim Relief and Office Report)

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Office Report)

C.A. No. 9626/2013  
Office Report)

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Office Report)

C.A. No. 9640/2013  
Office Report)

C.A. No. 9641/2013  
Office Report)

C.A. No. 9642/2013  
Office Report)

C.A. No. 5957/2014  
Office Report)

SLP(C) No. 12062/2016  
Office Report)

Date : 10/05/2016 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE R.K. AGRAWAL

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Mr. Ashuthosh, Adv.

Dr. Rakesh Gupta, Adv.

Mr. Somil Agarwal, Adv.  
Mr. Ambhoj Kumar Sinha, Adv.  
Ms. Monika Ghai, Adv.

Mr. Arun Kumar Beriwal, Adv.

Ms. Jyoti Mendiratta, Adv.

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Mr. Akarsh Garg, Adv.

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Mr. Pankaj Kumar, Adv.  
Mr. Rakesh Kumar, Adv.  
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Ms. Shirin Khajuria, Adv.

Mr. S. K. Sabharwal, Adv.

Mr. Purvish Jitendra Malkan, Adv.

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Mr. Ajay Vohra, Sr. Adv.  
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Mr. Kamal Mohan Gupta, Adv.

Mr. Aftab Ali Khan, Adv.  
Mr. M.Z. Chaudhary, Adv.  
Mr. Ali Safeer Faroozi, Adv.  
Mr. Syed Imtiyaz Ali, Adv.

Ms. Garima Prashad, Adv.

Mr. T. Mahipal, Adv.

Mr. Amit Yadav, Adv.  
Mr. Rohit Kaura, Adv.  
Mr. Rajiv Sharma, Adv.

Ms. Sujata Kurdukar, Adv.  
Mr. Shishir Deshpande, Adv.

Mr. Bharvava V. Desai, Adv.  
Mr. Rahul Gupta, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted in SLP(C) No. 12062 of 2016.

The Civil Appeals are dismissed in terms of the signed order.

Interlocutory application(s) pending, if any, shall stand  
disposed of accordingly.

(Ashwani Thakur)  
COURT MASTER

(Tapan Kr. Chakraborty)  
COURT MASTER

(Signed order is placed on the file)