



MAJESTY LEGAL

Advocates & Solicitors

ITAT¹ QUASHED INCOME TAX PENALTY

(NLU, DELHI vs. COMMISSIONER OF INCOME TAX²)

The Delhi Bench of the ITAT has quashed the impugned order of penalty passed by Ld. AO under Section 271B³ of ITA, 1961 on the ground that the NLU-Delhi exists solely for educational purposes and is not engaged in 'Business'.

HON'BLE COURT HELD AS UNDER:

- In the abovementioned case, The NLU, Delhi filed an income tax return for the assessment year 2018-19, declaring a total income of Rs. Nil and claimed exemption under Section 10(23C)(iiiab)⁴ in its return of income. The AO was not satisfied with the exemption claimed and stated that the university has not audited its account and the total income exceeded the maximum amount that is not chargeable to income tax in FY 2017-18, therefore the penalty proceedings under Section 271B was initiated.
- The Bench observed that the Ld. Tax Authorities have passed the order bereft of application of judicious mind as the University has claimed exemption of income earned by it from Tax u/s 10(23c)(iiiab) of the Act. However, Ld. AO has erroneously introduced the section 12A(1)(b) and considered it in the light of the provision to Section 44AB⁵ and assumed as the university has not got the account audited. However, in para 8 it was stated that Ld. AO had not found violation of main part of the Section 44B because the university had gross receipts for mandatorily getting books of accounts audited. Thus, it appears that Ld. Tax authorities have fallen in grave error on facts and law while invoking the penalty provisions.

TEAM MAJESTY LEGAL⁶

OFFICE : B-87, Alaknanda Apartment, G-1, Ganesh Marg/Moti Marg,
Bapu Nagar, Jaipur, Rajasthan-302015.

https://maps.app.goo.gl/BsUvY9RWyvUt6JcB9?g_st=iw

CHAMBER : 204, E-Block, Rajasthan High Court, Jaipur.

MOBILE No. : 9785461395

E-MAIL : mahi@majestylegal.in

WEBSITE : www.majestylegal.in

¹ Income Tax Appellate Tribunal

² ITA No. 2288/Del/2022, order dated 24th may 2023

³ Failure to get accounts audited.

⁴ (Incomes not included in total income of any university or other educational institution existing solely for educational purposes and not for purposes of profit and which is wholly or substantially financed by the Government.

⁵ Audit of accounts of certain persons carrying on business or profession.

⁶ Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.