

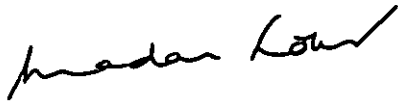
**HIGH COURT OF DELHI : NEW DELHI****+ ITA No. 168 of 2004**Judgement reserved on: April 26, 2005% Judgement delivered on: May 12, 2005# **The Director of Income Tax (Exemption)****Mayur Bhawan, Connaught Circus****New Delhi****...Appellant**! **Through Mr. R.D. Jolly with Mr. Ajay Jha,
Advocates****Versus**\$ **Institute of the Franciscan Clarist****sister of the most blessed sacrament****Clara Niwas, Kalu Sarai,****New Delhi****...Respondent**^ **Through Mr. K. Sampath, Advocate****Coram:*** **HON'BLE MR. JUSTICE SWATANTER KUMAR****HON'BLE MR. JUSTICE MADAN B. LOKUR**1. **Whether the Reporters of local papers may
be allowed to see the judgement?****Yes**




2. To be referred to Reporter or not? Not necessary
3. Whether the judgement should be reported in the Digest? Not necessary

* **MADAN B. LOKUR, J.**


For orders see ITA 82 of 2004.


(Madan B. Lokur)
Judge

May 12th, 2005
rkr


(Swatanter Kumar)
Judge

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12.5.05



26 to 30

HIGH COURT OF DELHI : NEW DELHI

+ **ITA No. 82 of 2004**

Judgement reserved on: April 26, 2005

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The Director of Income Tax (Exemption) 5
 Mayur Bhawan, Connaught Circus
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Coram:

* **HON'BLE MR. JUSTICE SWATANTER KUMAR**
HON'BLE MR. JUSTICE MADAN B. LOKUR

1. Whether the Reporters of local papers may
 be allowed to see the judgement?

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2. To be referred to Reporter or not? Not necessary
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* MADAN B. LOKUR, J.

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The Revenue has preferred five appeals claiming that a question of law arises out of an order of the Income Tax Appellate Tribunal (for short the Tribunal) to the effect that the Commissioner of Income Tax (Appeals) (for short CIT) erred in allowing the benefit of Section 10 (22) of the Income Tax Act, 1961 to the Respondent/Assessee.

2. The facts as they appear from the order of the Tribunal clearly show that the Assessee is running several schools (about 16 in number) employing more than one thousand teachers and nuns and imparting education to several thousand students. There is no doubt, as held by the authorities under the Act, that the Assessee



was carrying on charitable activities but the question was whether it was existing solely for educational purposes.

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3. According to the Assessing Officer, the fact that the Assessee was also running a dispensary, an orphanage and a church shows that the Assessee was not carrying out activities only for educational purposes. The CIT as well as the Tribunal disagreed with the Assessing Officer and we think rightly so.

4. The nuns who were teaching in the schools run by the Assessee were donating their entire salary back to the Assessee and the Assessee in turn looked after their maintenance. Provision of medical facilities for the benefit of the nuns and the students and running a church was found to be incidental to the principal activity of running an educational institution. Similarly, the orphanage being run by the Assessee catered to abandoned



children who were brought up and given education. The orphanage was not a recognized one and no adoption work was being carried on in the orphanage.

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5. On these facts the Tribunal concluded that the Assessee primarily carried on educational activities and while doing so the activity of running a dispensary for the benefit of students and teachers, running a church for the benefits of nuns and running an orphanage for the benefit of abandoned children did not detract from the educational activities being carried out by the Assessee. On this basis it was held that the Assessee was entitled to the benefit of Section 10(22) of the Act.

6. Having heard learned counsel for the parties, we are of the view that no fault can be found in the conclusions arrived at by the Tribunal. There is no dispute that the principal activity of the



Assessee was to run educational institutions. While running an educational institution, it cannot be said that a dispensary is not necessary for the children and teachers of the schools. Similarly a church would be required for the nuns who donated their entire salary back to the Assessee so that their maintenance, both temporal and spiritual, could be looked after by the Assessee. Running an orphanage for abandoned children with the intention of enabling them to grow up and obtain education cannot be said, in any manner, to be a ground for holding that the Assessee did not exist solely for educational purposes. There is no allegation that the Assessee carried on its activities for purposes of profit or for any other reason.

7. On these facts of the case, we find that no substantial question of law has arisen for our consideration.



8. Dismissed.

Madan Lokur
(Madan B. Lokur)
Judge

May/2005
rkr

Swatanter Kumar
(Swatanter Kumar)
Judge

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