

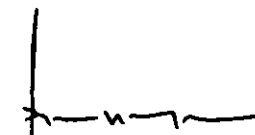



H.C.D.-I (a) Continuation Sheet

S.No.	Date	Orders
		<p>* IN THE HIGH COURT OF DELHI AT NEW</p> <p>+ ITA 422/2005 VASWANI EDUCATION SOCIETY A-1 Appellant Through : Mr.Pawan Choudhary, Adv. versus COMMISSIONER OF INCOME TAX DEL Respondent Through : Mr. J.R. Goel, Adv.</p> <p>CORAM: HON'BLE MR. JUSTICE T.S.THAKUR HON'BLE MR. JUSTICE SHIV NARAYAN DHINGRA</p> <p style="text-align: center;"><u>ORDER</u> 19.04.2006</p> <p>%</p> <p>The ITAT has, by the order impugned in this appeal, set aside the disallowance of expenses claimed by the assessee and remitted the matter back to the Assessing Officer with the observation that the assessee's application for exemption under Section 10(23)(c)(vi) shall be considered by the competent authority expeditiously.</p> <p>Mr.Goel, counsel appearing for the revenue, submits that the competent authority has already disposed of the application of the appellant seeking exemption. Counsel appearing for the appellant, on the other hand, submits that even the Assessing Officer has, based on the said order, passed a final order against which the appellant has not so far sought any remedy. The grievance all the same is that the competent authority had taken nearly six years to dispose of the application for the grant of exemption. He urged that this Court could, keeping in view the inordinate delay in the disposal of the application for exemption, assume that the same stood allowed by</p>



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		<p>competent authority and direct completion of the assessment on that basis.</p> <p>We regret our inability to accept the submission made on behalf of the appellant. A similar argument was advanced before the ITAT also but was, in our opinion, rightly turned down. There is no gainsaying that the ITAT was exercising appellate powers under the provisions of the Income Tax Act and so is this Court in an appeal under Section 260A of the Act. If an authority outside the frame of the appeal has neglected to pass an appropriate order on a request for exemption, the appellant's remedy against any such inaction would lie elsewhere and not before the Appellate Court or authority. Even otherwise, the alleged inaction has since terminated with the passing of an appropriate order by the competent authority by which the exemption prayed for by the petitioner has since been declined. If the appellant is aggrieved of the said order which learned counsel for the petitioner described as cryptic and non-speaking, the remedy is by way of a writ petition before the competent court. Suffice it to say that no substantial question of law arises for our consideration on the findings recorded by the Tribunal especially when the matter has been remitted back to the Assessing Officer for a fresh disposal. This appeal accordingly fails and is hereby dismissed.</p> <p style="text-align: right;">  T.S. THAKUR, J </p> <p style="text-align: right;">  SHIV NARAYAN BHINGRA, J </p> <p>APRIL 19, 2006 pk.</p>