



2025:UHC:6002-DB

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			Delay Condonation Application No. CLMA/2366/2018 In <u>SPA/ 114/ 2018</u> <u>Hon'ble Manoj Kumar Tiwari, J.</u> <u>Hon'ble Subhash Upadhyay, J.</u> Mr. Hari Mohan Bhatia, Advocate for the appellant. 2. Mr. Ashutosh Posti, Advocate for respondent No. 1. 3. There is 27 days delay in filing the special appeal. For the reasons indicated in the delay condonation application, we are inclined to condone the delay of 27 days in filing the appeal. Accordingly, delay condonation application is allowed. 4. This intra court appeal is directed against the final order dated 19.12.2017 passed by learned Single Judge in WPMS No. 651 of 2010. The order impugned in this appeal is reproduced below:- “Mr. S.K. Posti, Advocate for the petitioner. Mr. H.M. Bhatia, Advocate for the Income Tax. Learned counsel for the petitioner submits at the bar that present lis is squarely covered by the judgment rendered by this Court in WPMS No. 577 of 2014, decided on 17.11.2017. Accordingly, the writ petition is allowed. Impugned order dated 29.12.2009 passed by the respondent is quashed and set aside. The Commissioner of Income Tax (Exemption), Lucknow is directed to grant exemption to the petitioner for the relevant assessment year. No order as to costs.” 5. Learned counsel for the appellant submits that the writ petition filed by the respondent was decided in terms of the judgment rendered by learned Single



		Judge in WPMS No. 577 of 2014 (M/s J.B. Memorial Manas Academy Management Society v. Chief Commissioner of Income Tax). He submits that the judgment rendered in WPMS No. 577 of 2014 was challenged by the Chief Commissioner of Income Tax in Special Appeal No. 64 of 2018 and a Coordinate Bench of this Court partly allowed the said appeal and set aside the portion directing exemption to be granted under Section 10(23C)(vi) and directed the Chief Commissioner of Income Tax to consider and take a decision afresh in the light of observation made in the said judgment and also another judgment rendered by Apex Court in the case of American Hotel & Lodging Association Educational Institute v. CBDT, (2008) 10 SCC 509. Operative portion of the judgment passed in SPA No. 64 of 2018 is extracted below:- 21. Accordingly, the Appeal is allowed partly and while we uphold the quashing of the order, we set aside the portion directing exemption to be granted under Section 10(23C)(vi), instead we direct the appellant to consider and take a decision afresh in the light of the observations in this judgment and also the judgment of the Hon'ble Apex Court American Hotel & Lodging Association Educational Institute v. CBDT reported in (2008) 10 SCC 509, which was followed in the case of Queen's Educational Society vs. Commissioner of Income Tax reported in (2015) 8 SCC 47. This must be done after giving opportunity to the writ petitioner and the process must be completed within a period of six weeks from the date of production of a certified copy of this judgment before the appellant." 6. Learned counsel for the appellant thus submits that since the judgment, based on which, writ petition filed by respondent was allowed, has been modified in special appeal, therefore, this appeal also deserves to be decided in terms of the judgment
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		dated 19.03.2018, rendered in SPA No. 64 of 2018. 7. Mr. Ashutosh Posti, learned counsel appearing for the respondent submits that he has no objection to the submission made by learned counsel for the appellant. 8. We, therefore, decide this appeal, in terms of the judgment dated 19.03.2018, rendered in SPA No. 64 of 2018. The Commissioner of Income Tax (Exemption), Lucknow is directed to examine claim of the respondent for exemption, afresh, after affording reasonable opportunity of hearing to the respondent, within six weeks from the date of production of certified copy of this judgment before him. (Subhash Upadhyay, J.) (Manoj Kumar Tiwari, J.) 09.07.2025 <i>Mahinder/</i> MAHINDER SINGH Digitally signed by MAHINDER SINGH DN: cn=IN, o=HIGH COURT OF UTTARAKHAND, ou=HIGH COURT OF UTTARAKHAND, 2.5.4.20=da6212e6e78d94ed3134842bca8d6ca168979ca 7b6c2031a92d1a18b08923c, postalCode=263001, st=UTTARAKHAND, serialNumber=A87787C58240908B392BE84F5CDD4C2AF3 5DC4626D305B18C9EA4BABA43D288F, cn=MAHINDER SINGH Date: 2025.07.14 11:01:01 +05'30'
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