INCOME TAX APPELLATE TRIBUNAL, MUMBAI
BENCHES, MUMBAI
BENCH: F

BEFORE SAKTIJIT DEY, VICE PRESIDENT AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

ITA No. 5393/MUM/2025 **&** **CO NO. 212/MUM/2026** (Arising out of ITA No. 3554/MUM/2026) (निर्धारण वर्ष/Assessment Year: **2018-19**)		
UNIVERSITY OF MUMBAI 12/ACCOUNTS DEPARTMENT, M.G. ROAD, FORT, MUMBAI-400032	**Vs.**	**INCOME-TAX OFFICER (EXEMPTION)-2(3)** CH-616, 6TH FLOOR, MTNL TEL. EX. BUILDING, CUMBALLA HILLS, PEDDER ROAD MUMBAI-400026
Assessee		**Revenue**
Permanent Account Number of Assessee**:**		**AAATU1070A**
ITA 3554/MUM/2026 (निर्धारण वर्ष/Assessment Year: **2018-19**)		
DEPUTY COMMISSIONER OF INCOME TAX MUMBAI	**Vs.**	**UNIVERSITY OF MUMBAI** UNIVERSITY OF MUMBAI, 12/ACCOUNTS DEPARTMENT, M.G. ROAD, FORT, MUMBAI-400032
Revenue		**Assessee**
Permanent Account Number of Assessee**:**		**AAATU1070A**
Assessee represented by:		**Shri Yogesh Thar,** **Shri Chaitanya Joshi &** **Shri Suraj Singh Devda**
Revenue represented by:		**Shri Nishant Samaiya (CIT DR)**

सुनवाई की तारीख / Date of conclusion of hearing:	**27-Aug-2026**
घोषणा की तारीख / Date of pronouncement:	**16-Oct-2026**

आदेश / ORDER

PER SAKTIJIT DEY, VICE PRESIDENT:

Caption appeals and cross objection by the assessee arise out of two separate orders of National Faceless Appeal Center ('NFAC' for short), Delhi, pertaining to the assessment year ('A.Y.' for short) 2018-19.

ITA No. 5393/MUM/2025 (Assessee's appeal)

2. The primary issue arising in the appeal, as per main grounds, relates to denial of assessee's claim of exemption u/s.10(23C)(iiiab) of the Income Tax Act, 1961 ('the Act' for short). Of course, vide letter dated 13.04.2026, the assessee has sought permission to raise two additional grounds purely on legal issues. However, at the outset, we propose to deal with the issue on merits *qua* assessee's claim of exemption u/s.10(23C)(iiiab) of the Act.

3. Briefly stated, the assessee is a Government University and an Educational Institution. For the assessment year under dispute, the assessee did not file any return of income u/s.139(1) of the Act, with the understanding that its income is exempt u/s.10(23C)(iiiab) of the Act. However, the Assessing Officer ('A.O.' for short) received information that in the financial year relevant to the assessment year under dispute, the assessee had huge financial transactions, including various deposits in the bank accounts. Based on such information, the AO formed the belief that income chargeable to tax has escaped assessment. Accordingly, he initiated proceedings for reopening of assessment u/s.147 of the Act with the issuance of show cause notice u/s.148A(b) of the Act. After receiving the objections, the AO passed an order u/s.148A(b) of the Act and simultaneously issued notice u/s.148 of the Act. In response to the said notice, the

assessee filed return of income claiming exemption u/s.10(23C)(iiiab) of the Act. In course of assessment proceedings, the AO noticed that in the year under consideration, the assessee had receipts of Rs.250,21,76,406/- from fees from students, letting out premises, publication of books, government grants, settlement of advances, etc. He further observed that the receipts are kept in various deposits in the bank accounts and expenses are met out of withdrawals from deposits available in the bank. After verifying the information available on record, the AO called upon the assessee to justify the claim of exemption u/s.10(23C)(iiiab) of the Act. read with Rule 2BBB.

4. In response to the query raised by the AO, the assessee furnished the details of receipts and expenditure and submitted that conditions of s.10(23C)(iiiab) of the Act. read with Rule 2BBB are fully complied. The AO, however, was not convinced with the submissions of the assessee. Upon verifying the receipts, the AO observed that out of total receipts of Rs.250,21,76,406/-, Government grant was to the tune of Rs.52,34,09,281/-, which is less than the threshold limit of 50% provided under Rule 2BBB. Thus, he held that the assessee is not entitled to claim exemption u/s.10(23C)(iiiab) of the Act. Having held so, he brought the case of income over expenditure amounting to Rs.40,09,978,758/- to tax.

5. Though, the assessee contested the decision of the AO in denying claim of exemption u/s.10(23C)(iiiab) of the Act, as also the addition made, however, learned first appellate authority sustained the addition.

6. Before us, learned counsel appearing for the assessee apprised the bench about the history of University of Mumbai, the present assessee. He submitted that it is a Government Institution, fully and totally under the control of Government of

Maharashtra. He submitted, the University is presently governed under the Maharashtra Public Universities Act, 2016. Drawing our attention to the provisions of the said Act, learned counsel appearing for the assessee submitted that the Government is having pervasive control over the University and the assessee cannot decide independently regarding the creation of new posts of teachers, employees, revise the pay allowance, grant any special pay allowance, divert earmarked funds for any purpose other than the purpose for which it was received, transfer by sale or lease of immovable property, incur any expenditure out of funds received by the University Grant Commission ('UGC' for short) or any personal bodies for the purpose other than the purposes for which the funds are received.

7. He submitted, the Act authorizes the Government to cause inspection on the affairs of the University. Referring to the provision of section 10(23C)(iiiab) of the Act, learned counsel submitted, the assessee fully satisfies the conditions, as it is a University existing solely for educational purposes and is wholly and substantially financed by the Government. Insofar as, the conditions of Rule 2BBB, learned counsel drawing our attention to the details of grants received by the university from various sources including Government, submitted that the grants received from Government has exceeded the threshold limits of 50% of all receipts. Thus, he submitted, the conditions of u/s.10(23C)(iiiab) of the Act. read with Rule 2BBB stand complied. He submitted, while computing the 50% threshold limit as per Rule 2BBB, the departmental authorities have not taken note of grants received from UGC and capital grant from government in the form of land. He submitted, if the grant received from UGC and interest on government grant in kind is included, the total grant received from the Government would exceed the limit of 50%.

8. Without prejudice, learned counsel submitted that it is not necessary for a University or Educational Institution to comply with the conditions of Rule 2BBB on year on year basis. He submitted, in case, the condition is met in the first year of claim after the introduction of Rule, that would suffice and it is not necessary to comply the condition in each and every assessment year. He submitted, if in any subsequent assessment year, Government grant falls below the limit of 50%, claim of exemption u u/s.10(23C)(iiiab) of the Act cannot be denied. He submitted, a grant received from UGC is to be treated as a grant received from Government as UGC is an intermediary of the State. In support of his contention, learned counsel relied upon the decision of the co-ordinate bench in case of *Ganapathy Educational Trust v. Asstt. Director of IT (Exemption)* [2013] 144 ITD 509. He submitted, the AO while computing the grant received from the Government has only taken the revenue grant while completely ignoring the capital grant. He submitted, the capital grant received from the Government in the form of land, as also to be treated as Government grant for the purpose of Rule 2BBB. He submitted, the issue is no more *resintegra* as in assessee's case in AYs.2006-07 to 2011-12, under similar facts and circumstances, the Income Tax Appellate Tribunal has upheld the decision of learned first appellate authority allowing assessee's claim of exemption u/s.10(23C)(iiiab) of the Act. A copy of the said order of the co-ordinate bench was placed on record. Additionally, learned counsel for the assessee relied upon the decision of Hon'ble Bombay High Court in case of *CIT vs. Amritlal and Co. Ltd.* [2012] 212 ITR 540 (Bom) for the proposition that the threshold condition provided under Rule 2BBB cannot be examined on year-on year basis.

9. Per contra, strongly relying upon the observations of the departmental authorities, ld. DR submitted, the assessee has generated huge income exceeding Rs.250 crore

during the year. Whereas, the Government grants receipt is merely one-third of the total receipts. Hence, the conditions of Rule 2BBB are not complied, as the assessee is not wholly or substantially funded by the Government. Proceeding further, he submitted that grant received from UGC cannot be treated as Government grant to compute the threshold limit under Rule 2BBB. In this context, he drew our attention to Explanation 10 of section 43(1) of the Act. Further, he submitted, the claim of the assessee that the notional interest computed on the grant receipt from Government in kind representing immovable property, cannot at all be considered for computing the threshold limit under Rule 2BBB. He submitted, once the UGC grant and notional interest computed @ 8% on land received from Government is excluded, the Government grant would be much below the threshold limit of 50% of the total receipts. Thus, he submitted, the assessee has failed to comply with the conditions of section 10(23C)(iiiab) of the Act read with Rule 2BBB. In support of his contention, learned counsel relied upon the decisions of Hon'ble Karnataka High Court in case of *Visvesvaraya Technological University v. ACIT* [2014] 42 taxmann.com 237 (Kar.).

10. We have considered rival contentions in light of the judicial precedents cited before us and perused the materials available on record. The short issue arising for consideration is whether the assessee is eligible to claim exemption u/s.10(23C)(iiiab) of the Act. Undisputedly, the assessee is one of the oldest Universities existing in India. It was created in the pre-independence era, as early as in the year 1857, through Act No. XXII of 1857 passed in the Legislative Council of India. It is also a fact that the assessee is engaged in educational activities. Subsequently, the assessee was governed under various other Acts from time to time, and as on date, it is governed by Maharashtra

Public Universities Act, 2016. Section 8 of the said Act speaks of the Control of State Government on Universities Sub-section (1) lays down the following conditions:

> *8. Control of State Government on Universities.*
> *(1) Without prior approval of the State Government, the university shall not,-*
> *(a) create new posts of teachers, officers or other employees;*
> *(b) revise the pay, allowances, post-retirement benefits and other benefits of its teachers, officers and other employees;*
> *(c) grant any special pay, allowance or other extra remuneration of any description whatsoever, including ex-gratia payment or other benefits having financial implications, to any of its teachers, officers or other employees;*
> *(d) divert any earmarked funds received for any purpose other than that for which it was received;*
> *(e) transfer by sale or lease of immovable property;*
> *(f) incur expenditure on any development work from the funds received from the State Government or University Grants Commission or any person or body for the purposes other than the purposes for which the funds are received;*
> *(g) take any decision regarding affiliated colleges resulting in increased financial liability, direct or indirect, for the State Government.*

11. Whereas, sub-section (2) of section 8 of the Act authorizes the University to incur expenditure with the following conditions:

> *(2) The university shall be competent to incur expenditure, in consonance with the policies and directives of the State Government issued from time to time, from the funds received from,-*
>
> *(a) various funding agencies without any share or contribution from the State Government;*
>
> *(b) contributions received from individuals, industries, institutions, organizations or any person whosoever, to further the objectives of the university;*
>
> *(c) contributions or fees for academic or other services offered by the university for aided and self-supporting academic programmes;*
>
> *(d) development fund, or any other fund established by the university; for the purposes of,*
> *(i) creation of posts in various cadres;*
> *(ii) granting pay, allowances and other benefits to the posts created through its own funds provided those posts are not held by such persons, who are holding the posts for which government contribution is received;*
> *(iii) starting any academic programmes on self-supporting basis;*
> *(iv) granting remunerations or incentives to its employees for performing any task assigned to them other than their regular duties and responsibilities;*
> *(v) incurring expenditure on any development work and on welfare activities of its students and employees:*
>
> *Provided that, there is no financial liability, direct or indirect, immediate or in future, on the State Government.*

12. As could be seen from the provisions contained u/s.8 of the Act reproduced above, the Government exercises full control with reference to the matters enumerated under sub-section (1). Whereas, the Government authorizes the University to incur

expenditure out of the funds received from sources other than the State Government, ofcourse, in consonance with the policies of the State Government issued from time to time. Sub-section (2) of Section 8 further clarifies that expenditure to be so incurred should not create any financial liability, direct or indirect, immediate or future, on the State Government. The other sub-sections contained u/s. 8 of the Act speaks of various other control of the State Government over the activities of the University. Thus, section 8, read as a whole, signifies that the State Government has full control over the affairs of the University and the grants received from State Government or instrumentalities of the Government such as UGC, has to be utilized in the manner prescribed by the Government. In other words, the University has no authority to spend the grant of the Government or carryout the other activities like creating new posts, revising pay allowance, etc., utilize funds received for any other purposes, transfer, sale, or lease immovable property without the approval of the Government. Thus, it is factually established that the assessee is under the control of the Government.

13. Having said so, it is necessary to look into the provisions of s.10(23C)(iiiab) of the Act. A reading of the said provision makes it clear that upon fulfillment of the following conditions, the income will be exempt from taxation:

(i) The assessee must be a University or other Educational Institution.
(ii) It must be existing solely for educational purpose and not for the purpose of profit.
(iii) It must be wholly or substantially financed by the Government.

The expression 'wholly and substantially' financed by the Government for the purpose of u/s.10(23C)(iiiab) of the Act has been explained in Rule 2BBB introduced w.e.f. A.Y. 2015-16. A reading of the said rule makes it clear that a University or other Educational Institution can be treated as a wholly or substantially financed by the

Government, if the Government grant to such University or Educational Institution exceeds 50% of the total receipts, including any voluntary contributions of such University or Educational Institution during the relevant previous year. To establish meeting of the threshold condition prescribed under Rule 2BBB, the assessee has furnished before us the following chart:

Details of the grants received by the University of Mumbai

Sr. No.	Particulars	Financial Year 2005-06	Financial Year 2017-18
1	Salary Grant	15,84,66,921	51,48,15,281
	Other Grant	1,07,62,000	66,94,000
	Total (1)	16,92,28,921	52,15,09,281
2	**Development Grant**		
	Central Government	35,68,794	1,73,87,553
	Maharashtra Government	21,26,00,000	10,47,20,000
	Research Grant (I)	6,54,278	
	Research Grant (II)	20,52,886	67,22,334
	UGC Xth Plan	26,11,24,414	
	UGC XIIth Plan		10,02,704
	UGC Research Grant		27,03,462
	Total (2)	48,00,00,372	13,25,36,053
3	Interest on Govt Grant in Kind @ 8%	1,38,80,87,600	1,38,80,87,600
	Total Grant [A] (1+2+3)	**2,03,73,16,893**	**2,04,21,32,934**
4	**Income from Fee & Others**	89,25,25,435	1,93,15,93,487
5	**Interest**	3,19,87,172	4,90,73,638
	Total Income [B] (1 to 5)	**2,96,18,29,500**	**4,02,28,00,059**
6	**Expenditure**		
	1. Receipt and Payment	91,12,96,159	2,10,11,77,648
	2. Balance sheet Expenditure	18,92,14,335	39,71,48,293
	Total Expenditure	**1,10,05,10,494**	**2,49,83,25,941**
7	**Grant as a % of Total Income [A/B]**	**68.79%**	**50.76%**
8	**Grant as a % of Total Expenses**	**185.12%**	**81.74%**

14. As per assessee, the total grant received from Government in the year under consideration works out to 50.76 %. Hence, conditions of section 10(23C)(iiiab) of the Act read with Rule 2BBB stand complied. Whereas, the department's case is, UGC grant and the notional interest computed on land received from Government cannot be taken

as part of Government grant received for the year under consideration. So far as, grant from UGC is concerned, it is to be borne in mind that UGC is a statutory body established under the University Grants Commission Act, 1956. The object for creating UGC is for distributing Central Government funds to various Universities. Thus, in sum and substance, UGC is an intermediary between the Central Government and Universities. As per Section 15 and 16 of the UGC Act, the entire fund of the Commission is received from the Central Government out of the Consolidated Fund of India, through Annual budget allocation approved by the Parliament. From the fund so received, UGC allocates and distributes funds for the maintenance and development of the Universities or for any other general or specific purpose. Thus, there cannot be any doubt that the UGC is a medium for grant of Central Government funds to the Universities. That being the case, the UGC grant received by the University for all practical purposes is a grant received from Government. In fact, in case of *Ganapathy Educational Trust* (supra), the co-ordinate bench held that UGC, being an instrumentality of the Central Government, the grant received from the UGC can be considered as grant from Government. Thus, in our view, the grant received from UGC should form part of the grant received from Government.

15. The other objection of department is with regard to capital grant received by the assessee in the form of land. As discussed earlier, based on the value of the land received from Government, the assessee has computed interest @ 8% and treated it as grant received from Government. It is a fact on record that the campus of the University at Fort is situated on a land granted by the Government on 28.06.1918 on long-term leasehold basis for a period of 945 years. Additionally, another plot of land at Kalina was granted to the assessee by the State Government, which is under the ownership of

the assessee. Both these lands form part of the fixed assets appearing in the books of accounts of the assesse. It is a fact on record that assessee from past years is computing notional interest on the land and treating it as part of the Government grant. While adjudicating similar nature of dispute in assessee's case in A.Y. 2006-07, learned first appellate authority accepted assessee's claim by relying upon the decision of Hon'ble Karnataka High Court in case of *Indian Institute of Management* (2014) 49 taxmann.com 136 (Karnataka), wherein the Hon'ble High Court has held that the expression 'wholly and substantially financed by the government' cannot be confined only to the grants, but would include the capital gains such as grants for land, building, infrastructure, etc. Notably, the aforesaid decision of learned first appellate authority in A.Y. 2006-07 and subsequent assessment year upto A.Y. 2011-12 has been upheld by the co-ordinate bench in assessee's own case vide order dated 09.03.2026 in ITA No. 5385 to 5390/Mum/2025. Though, the assessment years involved therein are prior to introduction of Rule 2BBB, however, the said rule would have no bearing on the proposition laid down in the aforesaid decision. In case, the interest on grant received in the form of land and UGC grant is considered as part of Government grant, the total grant received from Government as a percentage of total receipts works out to 50.76% exceeding the threshold limit of 50%. Therefore, the conditions of section 10(23C)(iiiab) of the Act read with Rule 2BBB stand satisfied.

16. In view of the aforesaid, we hold that assessee is eligible to claim exemption u/s.10(23C)(iiiab) of the Act. The A.O. is directed to compute assessee's income accordingly after allowing exemption u u/s.10(23C)(iiiab) of the Act. In view of our decision on merits, the additional grounds raised by the assessee, having become academic, are kept open.

17. Ground number 2 of the main grounds on levy of interest being consequential, does not require adjudication.

ITA No. 3554/Mum/2026 and CO No. 121/Mum/2026 (by the Revenue)

18. The aforesaid appeal by the Revenue and cross objection by the assessee arise out of penalty proceedings u/s.270A of the Act.

19. Briefly the facts are, based on the addition made of Rs.40,09,98,758/-, upon completion of assessment, after denying assessee's claim of exemption u/s.10(23C)(iiiab) of the Act, the AO initiated proceedings for imposition of penalty u/s.270A of the Act alleging under reporting of income on account of misreporting. Ultimately, the AO passed an order imposing penalty of Rs.270,75,58,298/-, being 200% of tax on the income underreported as a consequence of misreporting.

20. Against the penalty order so passed, the assessee preferred an appeal before the CIT(A).

21. While deciding the appeal, though learned first appellate authority upheld imposition of penalty, however, he directed the AO to treat it as case of underreporting of income.

22. Being aggrieved, both the assessee and the Revenue are before us.

23. While deciding the quantum appeal of the assesse, being ITA No. 5393/Mum/2025, in the earlier part of the order, we have deleted the addition made by the AO, which formed the basis of imposition of penalty u/s.270A of the Act. That being the case, the penalty order cannot survive. Accordingly, the penalty imposed is deleted.

24. In nutshell, assessee's appeal, being ITA No. 5393/Mum/2025, is partly allowed. Department's appeal being ITA No. 3554/Mum/2026 is dismissed. Whereas, CO No.212/Mum/2026 is allowed.

Order pronounced in the open court on 16.10.2026.

Sd/-	**Sd/-**
MAKARAND V MAHADEOKAR	**SAKTIJIT DEY**
ACCOUNTANT MEMBER	**VICE PRESIDENT**

Mumbai
Dated: 16.10.2026

Roshani, Sr. PS

Copy to:

1	**UNIVERSITY OF MUMBAI, UNIVERSITY OF MUMBAI, 12/ACCOUNTS DEPARTMENT, M.G. ROAD, FORT, MUMBAI-400032**
2	**INCOME-TAX OFFICER (EXEMPTION)-2(3), CH-616, 6TH FLOOR, MTNL TEL. EX. BUILDING, CUMBALLA HILLS, PEDDER ROAD, MUMBAI-400026,**
3	THE PCIT / CIT,
4	THE D.R., ITAT, MUMBAI BENCH
5	GUARD FILE

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