1. **Having other objects of society running educational institution, does not mean that it does not exist solely for educational purpose.** In *American Hotel and Lodging Association, Educational Institute* v. *CBDT* [2008] 301 ITR 86 (SC), the authority is required to consider the nature and genuineness of the activities. The third proviso only sets out the conditions, which must be adhered to by the institution and compliance therewith is not to be tested at the stage of approval since they require consideration of facts and findings, which takes place in future. The requirement mentioned in the third proviso can only be tested after the end of the previous year when income is ascertained and thereafter applied. Further, the Supreme Court held that the authority is only required to examine that the petitioner's institution comes within the phrase 'exists solely for the educational purpose and not for profit'. Other conditions like application of income is not to be examined at this stage. The authority is only required to examine the nature, activities and genuineness of the institution. The mere existence that there is some profit does not disqualify the petitioner if the sole purpose of existence was not profit making but educational activities. The authority has to find out the predominant object of the activity and see whether the institution exists solely for education and not to earn profit. Merely because some profit arises from its activity will not mean that the predominant object of the activity is to earn profit and that it is not an educational activity. In order to ascertain whether the institute is carried on with the object of making profit or not it is the duty of the prescribed authority to ascertain whether balance of income has been applied wholly and exclusively to the object for which the institution is not established and in deciding the character of the recipient it was not necessary to look at the profits of each year but to consider the nature and the activities undertaken. **Allahabad Young Mens Christian Association *v.* Chief Commissioner of Income-tax [2015] 371 ITR 23 (Allahabad).**

2. **S.234B has no application in respect of nonresident companies -** No interest is leviable on the assessees under section 234B, even though they filed returns declaring *NIL* income at the stage of reassessment. The payers were obliged to determine whether the assessees were liable to tax under section 195(1), and to what extent, by taking recourse to the mechanism provided in section 195(2). The failure of the payers to do so does not leave the revenue without remedy; the payer may be regarded an assessee-in-default under section 201, and the consequences delineated in that provision will visit the payer. The implication of an absolute obligation upon the payer to deduct tax at source under Section 195(1) is that it becomes the responsibility of the payer to determine the amount it ought to deduct from the remittance to be paid to the assessee, towards tax. This determination would depend directly on the income of the assessee that is taxable in India on

account of being attributable to its PE in India. That this determination is the responsibility of the payer is provided for, in the statute, in Section 195(2). **Director of Income-tax, International Taxation *v.* GE Packaged Power Inc [2015] 373 ITR 65 (Delhi).**