

**IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH : "F" NEW DELHI ]**

**BEFORE DR. B. R. R. KUMAR, ACCOUNTANT MEMBER  
AND**

**SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**I.T.A. No. 1057/DEL/2022 (A.Y 2017-18)**

Parevartan Educare Foundation R-9/220, Sai Vrindavan, Raj Nagar, Ghaziabad, Uttar Pradesh <b>PAN No. AAAAP4771G</b> <b>(APPELLANT)</b>	Vs.	ACIT Exemption Circle, Ghaziabad <b>(RESPONDENT)</b>
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<b>Assessee by</b>	<b>Sh. Sandeep Kapoor, CA</b>
<b>Department by</b>	<b>Shri Shashi Bhushan Shukla, CIT DR</b>

<b>Date of Hearing</b>	<b>08.12.2022</b>
<b>Date of Pronouncement</b>	<b>17.01.2023</b>

**ORDER**

**PER YOGESH KUMAR U.S., JM**

This appeal is filed by the assessee against the order National Faceless Appeal Center [hereinafter referred to 'NFAC'] dated 14/03/2022 for assessment year 2017-18.

2. The assessee has raised the following grounds of appeal:-

1. *That That the Id., 'CIT(A) through National Faceless Appeal Centre has erred on facts and in law in upholding the order of the Assessing officer denying the exemption claimed by the assessee under section U/s. 11 and 12 of the Act on account of non-filing of Form 10B within due date without appreciating the fact that the appellant has condoned the delay from CIT (Exemption) Lucknow, and thereby confirmed the addition of Rs. 7524091/- against nil income declared in the ITR.*

2. *The CIT (A) erred on facts and law as he did not appreciate that the sole reason for making the addition was the late filing of form 10B of the relevant Assessment Year, and the same has been condoned by the Commissioner of Income Tax (Lucknow).*

3. *The CIT (A) erred on facts and in law in passing order u/s 250 of the Act without giving sufficient opportunity of being heard to the assessee as the assessee has never received any notice of hearing in physical form or electronic mode to submit the copy of condonation order passed by the CIT(E) Lucknow.*

4. *That the CIT (A) through the National Faceless Appeal Centre (NFAC) has erred both the facts and in law by not considering the reply dt.29.09.2021 wherein the assessee has informed that the CIT Exemption (Lucknow) has condoned the delay of filing Form 10B for AY 2017-18."*

3. The assessee society is engaged in education activities running educational institutions which is registered u/s 12A of the Income Tax Act, 1961 ('Act' for short). The assessee has filed return of income by declaring income at Rs. 'NIL'. The case was selected for scrutiny and the assessment

proceeding were initiated. The assessment u/s 143 (3) of the Act was completed whereby the claim of exemption u/s 11 & 12 has been denied and surplus of Rs. 75,24,091/- has been taxed on the ground that the assessee has not filed Form No. 10 within the due date. Accordingly, assessment order came to be passed on 25/11/2019.

4. As against the assessment order dated 25/11/2019, the assessee has preferred an appeal before the CIT(A) through National Faceless Appeal Centre. The Ld.CIT(A) (NFAC) vide order dated 14/03/2022 dismissed the appeal filed by the assessee.

5. Aggrieved by the order dated 14/03/2022, the assessee has preferred the present appeal on the grounds mentioned above.

6. The Ld. Counsel for the assessee submitted that the Ld.CIT (A) has erred by upholding the order of the Assessing Officer in denying the exemption claimed by the assessee u/s 11 & 12 of the Act on account of un-filing of Form No. 10B within due date without appreciating the fact that the assessee has condoned the delay from CIT (Exemption), Lucknow. The Ld.CIT(A) erred in not appreciating the fact that the sole reason for making addition was late filing of Form No. 10B which has been condoned by the Commissioner of Income Tax, Lucknow. The Ld. Counsel further submitted that, the Ld.CIT(A) has not given proper opportunity being heard as the assessee has neither received any notice of hearing in physical form or electronic mode to submit the copy of the condonation order passed by the CIT, Lucknow.

7. Per contra, the Ld. DR relied on the orders of the Lower Authorities.

8. The only reason for denying the exemption claimed by the assessee u/s 11 & 12 of the Act is that non filing of Form No. 10 within due date. It is the specific case of the assessee is that the delay has been duly condoned by the

Commissioner of Income Tax, Lucknow, but the copy of the same could not be placed before the CIT(A)(NFAC) since no notice of hearing has been received.

9. In our considered opinion, if a liberty is given to the assessee to file the copy of the 'order of condonation of delay passed by the CIT(Exemption), Lucknow,' before the CIT(A) and if a direction is given to the CIT(A) to consider the same afresh, the substantial justice would be rendered. Accordingly, we allow the Ground No. 3 of the assessee by remanding the matter to the file of the Ld.CIT(A) with a direction to the assessee to file the order of condonation of delay passed by the Commissioner of Income of Income Tax, (Exemption) Lucknow and further direct the Ld.CIT(A) to consider the case of the assessee afresh and pass appropriate order in accordance with law.

10. In the result, the appeal filed by the assessee is partly allowed for statistical purpose.

**Order pronounced in the Open Court on : 17.01.2023.**

**Sd/-  
(B. R. R. KUMAR)  
ACCOUNTANT MEMBER**

**Sd/-  
(YOGESH KUMAR U.S.)  
JUDICIAL MEMBER**

Dated : 17/01/2023

*\*R. N, SR. PS\**

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI