

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
(Conducted through E-Court at Ahmedabad)**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.259/Rjt/2022
(Assessment Year: 2020-21)

Saurashtra Vipassana Research Centre, Sanghavi & Company, Prasham, 4 th Floor, Kasturba Road, Nr. Bilkha Plaza, Rajkot-360001	Vs.	Income Tax Officer(Exemption) Ward-1, Rajkot
[PAN No.AABTS5937K]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Gaurang Sanghvi, A.R.
Respondent by:	Shri V. J. Boricha, Sr. DR

Date of Hearing	04.10.2023
Date of Pronouncement	13.10.2023

ORDER

PER SIDDHARTHA NAUTIYAL, JM:

This appeal has been filed by the assessee against the order passed by the Ld. Commissioner of Income Tax(Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi in DIN/Order No. ITBA/NFAC/S/250/2022-23/1046441103(1) vide order dated 21.10.2022 passed for Assessment Year 2020-21.

2. The assessee has taken the following grounds of appeals:-

“1. That the learned CIT(A) NFAC has grievously erred in failing to provide the appellant and adequate opportunity of hearing.

- 2 -

2. *That the learned CIT(A) NFAC has grievously erred in confirming the intimation passed by CPC u/s 143(1) of the Act assessing the returned income of Rs. NIL at Rs.1,32,41,945/-.*
3. *That alternatively and without prejudice to the above the learned CIT(A) NFAC has grievously erred in confirming the intimation passed by CPC in bringing to tax the gross income of the appellant without allowing for expenditures.*
4. *That alternatively and without prejudice to the above the learned CIT(A) NFAC has grievously erred in bringing to tax the voluntary contribution forming part of corpus.*
5. *That the learned CIT(A) NFAC has grievously erred in confirming that the CPC has processed the said intimation within the jurisdiction vested u/s 143(1) of the Act.*
6. *That the appellant craves for leave to add, amend and/or modify the grounds of appeal.”*

3. The brief facts of the case are the assessee is a Trust and during the impugned year under consideration there was delay in filing of Form 10B by the assessee, which was filed beyond the due prescribed date. For the year under consideration the extended due date for filing audited report in Form 10B was 15.01.2021, but the assessee could not file Form 10B within the due date and file the same belatedly on 15.02.2021. Accordingly, the Assessing Officer vide intimation under Section 143(1) of the Act denied the benefit of exemption under Section 11 & 12 of the Act.

4. In appeal before Ld. CIT(A), the assessee submitted that it was in the process of preferring an application for condonation of delay in filing Form 10B. However, the denial of exemption by the Assessing Officer was confirmed by Ld. CIT(A) in the following words:-

“As seen from above, when the appellant violates the provisions of section 11/12 of the Act the entire receipts are taxable income in the hands of the trust and no expenditure is allowable. Further, under 143(1) the AO/ CPC can deny any incorrect claim if such incorrect claim is apparent from any information in the return. Accordingly, there is no scope for the AO/CPC u/s. 143(1) to consider the claim of expenditure. Accordingly this ground is not allowed.

The appellant took alternative ground 3 as per which it is claimed that the contributions towards the corpus should not have been taxed. The contentions of the appellant are examined. As stated above while discussing ground 2 the AO has no scope to examine such claims u/s. 143(1) and all the receipts of the trust are brought to tax as there is a violation in filing the audit report within the due date. In the circumstances there is no error in the action of the AO/CPC. This ground is also not allowed.”

5. Before us, the Ld. Counsel for the assessee submitted that the Hon'ble CIT(Exemption), Ahmedabad vide order passed under Section 119(2)(b) of the Act dated 06.04.2022 has condoned the delay by the assessee in filing of Form 10B for the assessment year under consideration. Accordingly, it was submitted that since the delay in filing of Form 10B has now been condoned by the appropriate authority, suitable directions may be given to Assessing Officer to allow the benefit of exemption under Section 11 & 12 of the Act.

6. On going through the facts of the case and the order under Section 119(2)(b) of the Act passed by the concerned CIT(Exemption), Ahmedabad, it is observed that delay in filing Form 10B for the

impugned assessment year i.e. 2020-21 has been condoned by CIT(E). It would be useful to reproduce the relevant extracts of the order for reference:-

“The Trust vide letter dated 01/04/2022 filed in this office on 04/04/2022 has sought Condonation for delay in filing of Form 10B for A.Y. 2020-21. As per the contents of the application, the trust has filed the return of income for A.Y. 2020-21 on 15/02/2021 and Form 10B on 15/02/2021 by a delay of 30 days from the due date of filing of Audit Report i.e. 15/01/2021. In view of the same, Condonation has been sought.

2. *After going through the documents on file and in view of powers conferred under vide circular no. 02/2020 dated 03/01/2020, I hereby condone the delay in filing of Form 10B for A.Y. 2020-21.”*

7. In view of the aforesaid order passed by Ld. CIT(E), Ahmedabad condoning the delay in filing Form 10B, in our considered view the very basis for denial of claim of exemption under Section 11/12 of the Act no longer subsists. Accordingly, the matter is being restored to the file of the Ld. AO to take into consideration the order passed by Ld. CIT(E), Ahmedabad under Section 119(2)(b) of the Act condoning the delay in filing Form 10B for A.Y. 2020-21 and accordingly, grant exemption to the assessee as per law.

8. In the result, appeal of the assessee is allowed for statistical purposes.

This Order pronounced in Open Court on	13/10/2023
---	-------------------

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER
Ahmedabad; Dated 13/10/2023
TANMAY, Sr. PS

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट / DR, ITAT, Rajkot
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, राजकोट / ITAT, Rajkot