

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No. 573/Bang/2024
Assessment year : 2022-23

Enabling Leadership Foundation, No.1101, Golden Square, 3 <sup>rd</sup> Floor, 24 <sup>th</sup> Main Road, J P Nagar 1 <sup>st</sup> Phase, Bangalore – 560 078. <b>PAN : AAGCE 5348C</b>	Vs.	The Income Tax Officer, Ward 1(1), Hubli.
APPELLANT		RESPONDENT

Appellant by	:	Shri Sudheendra B.R., Advocate
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel.

Date of hearing	:	24.04.2024
Date of Pronouncement	:	30.04.2024

**ORDER**

*Per Laxmi Prasad Sahu, Accountant Member*

This appeal is filed by the assessee against the ex parte order dated 31.01.2024 of the Addl./Jt.CIT(A), Madurai for the AY 2022-23.

2. The brief facts of the case are that the appellant is a company registered u/s. 8 of the Companies Act on 01.07.2021. The appellant is registered under the provisions of section 12AA of the Income-tax Act

vide Active DIN ITBA/EXM/F/EXM44/2022-23/1050641368(1) dated 11.03.2023. The assessee filed return of income on 03.11.2022 declaring NIL income. The extended due date for filing return of income was 07.11.2022. Audit report was filed in Form 10B as per Rule 17B on 16.01.2023. While processing the return u/s. 143(1), the CPC denied the exemption u/s. claimed by the assessee because of late filing of Form 10B by the assessee, raising a demand of Rs.12,07,550.

3. Aggrieved by the intimation u/s. 143(1), the assessee filed appeal before the First Appellate Authority (FAA). The FAA noted that all the grounds raised related to exemption u/s. 11 due to delay in filing Form 10B. Relying on the judgment of Ahmedabad Tribunal in the case of Association of Indian Panelboard Manufacturer v. DCIT [2022] 143 taxmann.com 418 (Ahd. Trib.) dated 22.07.2022, the FAA observed that the power of condonation of delay in filing Form 10B rests with CIT(E) only and not with the FAA. The FAA therefore dismissed the appeal as not maintainable. Against this, the assessee is in appeal before the ITAT.

4. At the outset, the Id. AR fairly submitted that the Id. CIT(Exemptions) has condoned the delay in filing Form 10B u/s. 119(2)(b) on an application filed by the assessee on 20.02.2023 vide order dated 03.04.2024, which is as follows:-



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
INCOME TAX DEPARTMENT  
CIT(EXEMPTIONS) BANGALORE

To, ENABLING LEADERSHIP FOUNDATION No - 1101 Golden Square 3rd Floor 24th Main JP nagar 1st phase,J P Nagar S.O Bangalore South BANGALORE 560078,Karnataka India	
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PAN: AAGCE5348C	Assessment Year: 2022-23	Dated: 03/04/2024	DIN & Order No : ITBA/COM/F/17/2024-25/1063880009(1)
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Sir/ Madam/ M/s,

**Subject: Condonation for delay in filing Form 10B u/s 119(2)(b) - Approval Order**

PROCEEDINGS OF THE COMMISSIONER OF INCOME TAX (EXEMPTION), BANGALORE

**M.MATHIVANAN, IRS**  
Commissioner of Income tax (Exemptions),  
Bangalore

Name of the Assessee	M/s Enabling Leadership Foundation, Bangalore
PAN & Assessment year	AAGCE5348C 2022-23
Status	AOP (Trust)

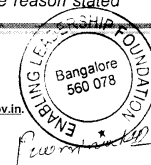
**Order under section 119 (2)(b) of the Income-tax Act, 1961 read with Rule 17B of Income Tax Rules,1962**

M/s Enabling Leadership Foundation, Bangalore filed an application in this office on 20.02.2023 requesting for condonation of delay in filing Form 10B for the Assessment Year 2022-23.

2. In the application, the assessee has submitted as under: -
- "(i) The return of income for the AY 2022-23 has been filed on 03-11-2022 within the statutory due date. However, as informed to us by our auditors, due to a ransomware virus attack in our auditor's office, there was loss of data, and the files could not be retrieved despite best efforts. Consequently, the Form 10B could not be filed by them one month prior to the due date for furnishing return u/s 139(1), as required under the Act. This was subsequently filed on 16-01-2023 with a delay of 108 days due to unavoidable circumstances beyond our control.*
- (ii) We would like to submit that the delay in filing the Form 10B was not due to any wilful, deliberate or negligence but was occasioned due to the reasonable cause for the reason stated*

Note: If digitally signed, the date of digital signature may be taken as date of document.  
UNITY BUILDING ANNEXE, MISSION ROAD, BENGALURU, Karnataka, 560027  
Email: BANGALORE.CIT.EXMP@INCOMETAX.GOV.IN,

Note:- The website address of the e-filing portal has been changed from [www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in) to [www.incometax.gov.in](http://www.incometax.gov.in).  
\* DIN- Document Identification No.



AAGCE5348C- ENABLING LEADERSHIP FOUNDATION  
A.Y. 2022-23  
ITBA/COM/F/17/2024-25/1063880009(1)

above. Further, we have completed all other compliances within specified due dates and hence pray that we should not be penalised for this procedural lapse."

3. On perusal of submission of details, it is observed that: -
- (i) CPC has raised a demand of **Rs. 12,07,560/-** order dated. 08.03.2023 U/s 143(1) on gross receipts of **Rs. 32,78,620/-**.
  - (ii) The Assessee has obtained registration u/s 12AB in Form 10AC dt. 01.10.2021 (Provisional From AY 2022-23 to 2024-25) and has Regular registration dated 11.03.2023 (From AY 2022-23 to 2026-27).
  - (iii) Assessee filed its Return of Income on 03.11.2022 (Due date: 07.11.2022) & Form 10B on 16.01.2023 (Due date: 07.11.2022) for A.Y. 2022-23. There is a delay of 101 days in filing Form 10B for A.Y. 2022-23.
  - (iv) Assessee has accumulated Rs. 12,96,385/- in Form 9A. The same amount is reflected in intimation U/s 143(1) in column vi – Amount in addition to amount referred to in (iv) above, accumulated or set apart for specified purposes if all the conditions in section 11(2) and 11(5) or third proviso to section 10(23C) are fulfilled. The assessee has mentioned the date for filing Form 9A but has not mentioned the amount of accumulation in ITR for Form 9A.
4. Assessee Representative Shri Sudarshan, CA appeared and discussed the case. He submitted a letter dated 19.03.2024, explaining the circumstances under which the entries in Income Tax Return with respect to 11(2) accumulation was made mistakenly. After considering the facts and circumstances of the case, it is satisfied that the assessee was prevented by reasonable cause from filing Form 10B within the stipulated time.
5. In the light of CBDT circular No. 2/2020 dated 03-01-2020 in F.No.197/55/2018-ITA-I, the delay in filing Form No. 10B for the A.Y. 2022-23 is hereby condoned.
6. The JAO is directed to give effect to this order u/s 119(2) (b) of I.T. Act, 1961. Consequent to giving effect to this order, if the case results in refund, the same may be adjusted against the existing demand, if any.

MANIAN MATHIVANAN  
CIT(EXEMPTIONS) BANGALORE

Copy to:

1. The Addl. Commissioner of Income Tax, Exemptions-Range, Bangalore.
2. The Income Tax Officer(Exemptions), Ward-1, Bangalore.



5. Accordingly, the ld. AR requested that the matter may be sent back to AO for fresh consideration.
6. The ld. DR submitted that Form 10B requires examination.
7. Considering the rival submissions, we note that the assessee filed Form 10B belatedly due to which exemption u/s. 11 was denied by the CPC. The FAA dismissed the appeal as not maintainable since he had no power to condone the delay in filing Form 10B belatedly. On the other hand, the assessee filed condonation application on 20.2.2023 before the CIT(Exemptions) and the ld. CIT(Exemptions) by order dated 03.04.2024 has condoned the delay in filing Form 10B, copy of which is placed on record. Since the belated filing of Form 10B is condoned by the CIT(Exemptions), we deem it fit to send back the matter to the Assessing Officer for fresh consideration and decision as per law. The assessee is directed to comply the notices issued by the Assessing Officer and not seek unnecessary adjournment for early disposal of the case.
8. In the result, the appeal is allowed for statistical purposes.

Pronounced in the open court on this 30<sup>th</sup> day of April, 2024.

Sd/-  
( SUNDARARAJAN K.)  
JUDICIAL MEMBER

Sd/-  
(LAXMI PRASAD SAHU )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 30<sup>th</sup> April, 2024.

*/Desai S Murthy /*

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.