

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'B' Bench, Hyderabad**

**BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER AND**  
**SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

आ.अपी.सं / **ITA No.616/Hyd/2023**  
(निर्धारण वर्ष / Assessment Year: 2014-15)

Anjuman E Khadimul Muslimeen Refah-E Aam, Hyderabad. PAN:AAAAA0274F	<b>Vs.</b>	Dy. Commissioner of Income Tax, Circle 1(1), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri K.C. Devdas, Advocate	
राजस्व द्वारा / Revenue by::	Shri Madan Mohan Meena, DR	
सुनवाई की तारीख / Date of hearing:	27/08/2024	
घोषणा की तारीख / Pronouncement:	29/08/2024	

**आदेश/ORDER**

**PER MADHUSUDAN SAWDIA, A.M:**

This appeal is filed by Anjuman E Khadimul Muslimeen Refah-E Aam ("the assessee"), feeling aggrieved by the order passed by the Learned ADDL/JCIT (A)-2, Mumbai ("Ld. First Appellate Authority") dated 29.11.2023 for the A.Y. 2014-15.

2. The grounds raised by the assessee are as under :

*"1. The order of the learned Addl/Joint JCIT(A)-2 Mumbai (JCIT) in holding that the Appellant trust is not eligible for exemption is totally contrary to the facts and evidence on record.*

*2. The learned Addl/JCIT erred in holding that the assessing officer has rightly disallowed the exemption claimed therefore confirming the assessment of the TRUST on an Income of Rs. 82,83,576/-.*

*3. The learned JCIT failed to note that the decision of the Supreme Court in CC vs. Dilip Kumar & Company [2018] 95 Taxmann.com 327 cited in the order passed u/s. 250 were inapplicable to the provisions relating to Section 11 & 12 which were a separate code by itself and the delay caused was only a curable defect and the learned JCIT ought to have given an opportunity to the Appellant to condone the delay and ought to have followed the spirit of the circular referred to by the learned JCIT governing assessment years 2016-2017 and 2017-2018 and therefore ought to have condoned the delay and allowed the exemption u/s. 11 of the I.T Act, 1961.*

*4. The appellant craves leave to add to, amend, alter or delete all or any of the foregoing grounds of appeal.”*

3. The brief facts of the case are that, the assessee is engaged in the activity of running orphanage school, filed its return of income (“ROI”) on 20/04/2015 and Form 10B on 22.04.2015 claiming exemption u/s.11 of the Income Tax Act, 1961 (“the Act”) and declaring the total income at NIL. The ROI of the assessee was processed by the Central Processing Centre, Income Tax Department, Bengaluru (“CPC”) u/s.143(1) of the Act on 16.03.2016 and the total income was determined at Rs.82,83,576/- by denying the exemption claimed u/s.11 of the Act.

4. Feeling aggrieved by the order of CPC, the assessee filed an appeal before the Ld. First Appellate Authority. The Ld. First Appellate Authority also dismissed the claim of the assessee contending that the ROI as well as Form No.10B had been filed by the assessee after the due date specified under the Act. The relevant portion of the order of the Ld. First Appellate Authority containing his observation on page no.11 of his order is reproduced as under:

*“It is evident that the appellant had filed the return of income & Form 10B after due date in violation of Rule 12A(1)(bA) of Income Tax Rules, 1962. It is a trite law that if a thing is said to be done in a particular manner, it shall be done in that manner and its performance in any other mode or fashion shall be of no consequence. Therefore, in application of the above decisions of the apex court and also the mandated provisions of the statute, the Assessing Officer has rightly disallowed the exemption claimed and made addition of the same to the total income of the appellant as per the provisions of section 143(1)(a)(ii). Accordingly, I am not inclined to interfere with the decision of the Assessing Officer. These grounds of appeal are hereby dismissed.*

*In the result, appeal is dismissed..”*

5. Aggrieved by the impugned order of the Ld. First Appellate Authority, the assessee is in appeal before us. The Ld. AR submitted that for A.Y.2014-15 the assessee filed its ROI on 20/04/2015 and Form 10B on 22.04.2015, claiming exemption u/s 11 of the Act amounting to Rs.82,83,576/- and declaring total income at Rs.Nil. The revenue authorities did not allow the exemption claimed u/s 11 of the Act of Rs.82,83,576/- contending that the assessee had not filed the ROI and Form 10B within the due date specified under the Act and finally raised a demand of Rs.34,47,810/-. The Ld. AR further submitted that the revenue authorities didn't allow the exemption u/s 11 of the Act on the ground that the Form 10B and ROI were not filed within the due date. As far as the delay in filing of Form 10B is concerned the Ld. AR submitted that the assessee had applied for condonation of delay for filing of Form 10B before the Ld. CIT(E) and the Ld. CIT(E) has condoned the delay for filing of Form 10B vide his order dated 06/08/2024 . Therefore, on this issue there should not be any denial of exemption u/s 11 of the Act. With regards to delay in filing of ROI, the Ld. AR submitted that section 12A(1)(ba) stipulates that, to claim exemption u/s 11 of the Act, the return

must be filed in accordance with the provisions of section 139(4A). However section 12A(1)(ba) have been inserted w.e.f. 01/04/2018 i.e. applicable w.e.f. A.Y. 2018-19 only and hence it is not applicable to the year under consideration. Therefore, the Ld. AR requested before the Tribunal to allow the exemption claimed u/s. 11 of the Act of Rs.82,83,576/-.

6. Per contra, Ld. DR placed heavy reliance on the orders of the Ld. First Appellate Authority and vehemently opposed the submission made on behalf of the assessee.

7. We have heard the rival contentions, perused the material available on record and gone through the order of the Ld. First Appellate Authority. The revenue authorities did not allow the exemption claimed u/s 11 of the Act of Rs.82,83,576/- contending that the assessee had not filed the ROI and Form 10B within the due date specified under the Act and finally raised a demand of Rs.34,47,810/-. As far as the delay in filing of Form no. 10B is concerned the Ld. CIT(E) has condoned the delay for filing of Form 10B vide his order dated 06/08/2024. Therefore, in our considered opinion, on this issue there should not be any denial of exemption u/s 11 of the Act. However with regards to delay in filing of ROI, Section 12A(1)(ba) of the Act stipulates that, to claim exemption u/s 11 of the Act, the return must be filed in accordance with the provisions of section 139(4A). However section 12A(1)(ba) have been inserted w.e.f. 01/04/2018 i.e. applicable w.e.f. A.Y. 2018-19 only and hence the same is not applicable to the year under consideration. Therefore, in our considered view, due to delay in filing of ROI for the year under consideration also, there cannot be any denial of

exemption u/s.11 of the Act. Hence we are of the considered opinion that the assessee is eligible for exemption u/s.11 of the Act for the year under consideration and we direct the revenue authorities to allow the exemption u/s.11 of the Act for the year under consideration to the assessee. Accordingly, we allow the appeal of the assessee.

8. In the result, the appeal of the assessee is allowed .

**Order pronounced in the open Court on 29th Aug., 2024.**

Sd/-

**(K. NARAIMHA CHARY)**  
JUDICIAL MEMBER

Sd/-

**(MADHUSUDAN SAWDIA)**  
ACCOUNTANT MEMBER

Hyderabad.

Dated: 29.08.2024.

\* *Reddy gp*

**Copy forwarded to :**

1. Anjuman E Khadimul Muslimeen Refah-E Aam, No.2-4-696, AKM Compound, Kachiguda, Hyderabad-500 027
2. DCIT (Exemption), Circle 1(1), Hyderabad.
3. Pr. CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. Guard file.

BY ORDER,