

**आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH, CHENNAI**

**माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं**  
**माननीय श्री जगदीश, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER**  
**AND HON'BLE SHRI JAGADISH, ACCOUNTANT MEMBER**

**आयकर अपील सं./ ITA No.1608/Chny/2024**  
**(निर्धारणवर्ष / Assessment Year: 2021-2022)**

Arutperum Jothi Arakkattalai,  
5-J, Kottai, Mulluvadi,  
Attur,  
Salem Dist. 636 141.

**Vs.** The Income Tax Officer,  
Exemption Ward,  
Salem.

**[PAN: AAFTA 9247E]**

(अपीलार्थी/Appellant)

अपीलार्थी की ओर से/ Appellant by

प्रत्यर्थी की ओर से /Respondent by

(प्रत्यर्थी/Respondent)

: Shri. P.M. Kathir, Advocate

: Shri. N.S. Phanidharan, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 18.09.2024

घोषणा की तारीख /Date of Pronouncement : 30.09.2024

**आदेश / ORDER**

**PER MANU KUMAR GIRI (Judicial Member)**

This appeal by assessee is arising out of the order of the Additional/Joint Commissioner of Income Tax (Appeals)-2, Office of the Commissioner of Income Tax, Appeal, Ludhiana in Order No.ITBA/APL/S/250/2023-24/1063717725 (1), dated 30.03.2024 for the assessment year 2021-2022.

2. Brief facts of the case are that assessee filed its return of income for the impugned assessment year on January 12, 2022 declaring total income at Rs. NIL. The return was processed u/s 143(1) of the Income Tax Act, 1961 (in short 'the

Act") on August 23, 2022 by determining the total income at Rs.25,30,012/-.

Aggrieved from the above order, the appellant preferred an appeal before the Ld. CIT(A). The sole issue of denying the benefit of Section 11 & Section 12 of the Act while processing the return of Income under section 143(1) of the Act as Form 10B was not filed within the prescribed time limit. The reasons for adjustment u/s 143(1)(a) are as follows:

*“The trust or institution registered u/s 12A/12AA/12AB has not E-filed the Audit Report in Form 10B at least one month prior to the due date for furnishing return u/s 139(1). Hence, the exemption claimed in Sr. no. 2 [exemption claimed u/s 11(1)(d)] and Sr. no. 4i to 4 viii of Part B-TI is not allowable in accordance with the provisions of Section 12A(1)(b) of the Income Tax Act.*

3. In the present case, the Id.CIT(A) noted that the appellant has given reason that there was technical issue for non-verification of the Form 10B. However, the issue was brought to the notice of the CPC belatedly. Further, no application for condonation of delay in the verifying of the Form-10B has been filed with the respective Commissioner of Income Tax (exemptions)/CCIT/DGIT. Hence, the Id.CIT(A) considered held that Form 10B was not filed within the time frame outlined by the Act. In view of the above, the CIT(A) found no error in the AO's decision to disallow the appellant's claim for exemption under Section 11 and 12 of the Act when processing the return under Section 143(1) of the Act. Further, the Id. Departmental Representative also vehemently submitted that according to the Provisions of Section 44AB of the Act, as per explanation (ii) the specified date means, the date of one month prior to the date of furnishing of the return of income under Section 139(1) of the Act. This time limit is also imported u/s 12A (1) (b) of the Act. Thus, form no 10 B is also required to be filed one month before the

due date of filing ROI. The assessee has furnished form no.10B of the Act along with the return of income but not one month prior to the due date of filing of the return of income. For violation of these conditions, the CPC has held that assessee is not entitled to exemptions under Section 11 of the Act.

4. For adjudication of the issue relevant dates as mentioned in the paper book submitted by the assessee are as under:

Sl.No	Date	Particulars	Pgs
1	29.01.2019	Order of registration of the appellant u/s. 12AA	1&2
2	12.01.2022	Acknowledgement and relevant pages of the ROI filed by the appellant for this year	3-14
3	12.01.2022	Audit report e-filed by the appellant's CA for this year	15
4	01.07.2022	Proposal u/s. 143(1)(a) issued by the CPC	16
5	09.07.2022	Response submitted by the appellant to the proposal u/s. 143(1)(a) issued by the CPC	17
6	01.09.2022	Due to technical glitch the Audit report e-filed by the appellant on 12.01.2022 for this year in Form 10B along with audited financials has been verified on 01.09.2022.	18-23

5. The Id.AR submitted that the learned CIT (A) has incorrectly upheld the . The Id.AR further pointed that provision of section 12A describes the conditions for applicability of section 11 and 12. As per provisions of section 12A(1)(b) of the provided that '(b) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any

previous year, the accounts of the trust or institution for that year have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed'.

6. Thus it is clear that form number 10 B is required to be filed on or before specified date. Such date is defined under explanation (ii) of section 44AB of the act as under:-

*(ii) "specified date", in relation to the accounts of the assessee of the previous year relevant to an assessment year, means [date one month prior to] [the due date for furnishing the return of income under sub-section (1) of section 139].]*

*The CBDT has extended due date of filing of the return of income my press release dated 9/9/2021 as under :-*

*5. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which is 30th November, 2021 under sub-section (1) of section 139 of the Act, as extended to 31st December, 2021 vide Circular No.9/2021 dated 20-5-2021, is hereby further extended to 28th February, 2022;*

*6. The due date of furnishing of belated/revised Return of Income for the Assessment Year 2021-22, which is 31st December, 2021 under sub-section (4)/sub-section (5) of section 139 of the Act, as extended to 31st January, 2022, vide Circular No.9/2021 dated 20- 5-2021, is hereby further extended to 31st March, 2022;*

7. Therefore, the extended time limit available to the assessee for the due date of filing of the return of income was 28.02.2022. Admittedly assessee filed return of income on 12/1/2022 and also furnished form number 10B along with that. Therefore, the due date for filing of form number 10B was one month prior to the

due date of filing of the return of income i.e. 31 January 2022. As, the due date of filing of the return have been extended by the CBDT, the delay caused in filing form number 10B is minimal and also due to the uncertainty of the due date of filing of the return which is duly extended by CBDT. Identical issue arose before the coordinate bench in case of Kedar Nath Saraf Charity Trust [2024] 161 taxmann.com 671 (Kolkata - Trib.) albeit for assessment year 2021 – 22 wherein coordinate bench held as under:-

8. It is an admitted fact that from March, 2020 to March, 2022, country was passing through Covid Pandemic and there were various restriction on the movements of the citizens and carrying out of the normal official works was hindered. It is also an accepted fact that many changes have been brought into the Act regarding procedure of filing of income-tax return as well as audit reports and certain technical glitches have been faced time and again. Also on account of change of the utility of furnishing the reports, the forms and change in the due dates have given rise to delay in furnishing of details and documents with the revenue authorities. Considering these aspects, CBDT firstly came up with a Notification dt. 03/01/2020 authorising the Commissioners to admit applications of condonation of delay in filing Form No.10B for Assessment Year 2018-19 and subsequent Assessment Years, where there is a delay of up to 365 days. Subsequently on 19/07/2022 i.e., after the end of the Covid Pandemic restrictions again a Circular 16/2022 was issued where the delays in filing of Form 10B beyond 365 days but upto three years were also directed to be considered for admitting the

application for condonation of delay. This Circular in itself shows that the Income-tax Department was aware about the technical glitches and the problems faced by the tax-payers in furnishing various types of Forms including Form No.10B is with regard to the furnishing of audit report in case of Trusts and Societies. In the instant case since, there is no delay in filing of audit report in Form 10B but there is delay in verification of the return and Form 10B, we find that the said delay deserves to be ignored in larger interest of justice. Hence, for AY 2021-22 the assessee would be duly entitled for claim of exemption u/s 11 of the Act. In view of the aforesaid observations and respectfully following the judicial precedent herein above, the grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 30th day of September, 2024

**Sd/-**  
**(जगदीश)**  
**(JAGADISH)**

**Sd/-**  
**(मनु कुमार गिरि)**  
**(MANU KUMAR GIRI)**

**लेखा सदस्य / ACCOUNTANT MEMBER** न्यायिक सदस्य / **JUDICIAL MEMBER**  
चेन्नई Chennai:

दिनांक Dated : 30-09-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF