

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 602/Ahd/2024
(Assessment Year: 2019-20)

Bhavnagar Dashashrimali Meshree Vanik Gnati, Opp. Ghogha Gate Police Station, Ghogha Gate, Bhavnagar, Gujarat-364001	Vs.	Asst. Director of Income-tax, CPC, Bengaluru (Current JAO: Income Tax Officer (Exemp), Bhavnagar
(Appellant)	..	(Respondent)
Appellant by :	Shri Tushar Hemani, Sr. Advocate & Shri P.B. Parmar, AR	
Respondent by:	Shri C. Dharani Nath, Sr DR	
Date of Hearing	21.11.2024	
Date of Pronouncement	21.11.2024	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT :

This appeal has been filed by the Assessee against the order passed by the Ld. ADDL/JCIT(A)-1, Bengaluru (hereinafter referred to as "CIT(A)" for short), dated 27.02.2024 passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], for Assessment Year (AY) 2019-20.

2. The Assessee has taken following grounds of appeal:-

"1. The Ld. CIT(A) has erred in law and on facts of the case in confirming the action of the Ld. AO in disallowing exemption of Rs.10,67,766/- u/s. 11 of the Act.

2. The Ld. CIT(A) has erred in law and on facts of the case in confirming disallowance solely based on the non-filing of audit report along with

the return of income despite such requirement being procedural and not mandatory in nature.

3. The Ld. CIT(A) has erred in law and on facts of the case in not appreciating that the Appellant has fulfilled the substantive requirement of getting its accounts audited before filing a return of income as reflected by UDIN for Form No 10B generated by the auditor.

4. Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in grossly ignoring various explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order. The action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.

5. The Ld. CIT(A) has erred in law and on facts of the case in confirming the action of the Ld. AO in levying interest u/s. 234B/C of the Act.

6. The Appellant craves leave to add, amend, alter, edit, delete, modify, or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.”

3. In this case, the return of income has been filed on 27.08.2019, whereas the Form No. 10B was filed on 05.09.2010. The Revenue Authorities had a grievance about the delay in filing Form 10B and rejected the benefit of Section 11 of the Act.

4. We find that the Hon'ble High Court of Gujarat in the case of Association of Indian Panelboard Manufacturer Vs. Deputy Commissioner of Income-tax [(2023) 157 taxmann.com 550 (Gujarat), order dated 21.03.2023] held that although the requirement of furnishing report was mandatory, filing thereof is a procedural aspect. The Hon'ble jurisdictional High Court also held that even though the Form 10B was filed at a later

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stage, when it was part of the record of the Assessing Officer in course of the processing of the return of income, the Assessing Officer could not have denied the exemption claimed by the assessee u/s 11(1) and 11(2) on the ground that Form No. 10B has not been filed. Form 10B was available by the time the order of the Id. CIT(A) was passed who could have considered the factum of filing of FORM 10B. Keeping in view the judgement of Hon'ble jurisdictional High Court, we hold that the assessee is eligible for deduction u/s 11 of the Act as the Form 10B has been duly filed.

5. In the result, the appeal of the Assessee is allowed.

The order is dictated and pronounced in the open Court on 21.11.2024

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Ahmedabad; Dated 21/11/2024

btk

Sd/-

**(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

आदेश की प्रतिलिपि □ ग्रेषित / 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, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

True Copy

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad