

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC' NEW DELHI**

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA No. 3664/Del/2024
Assessment Year: 2020-21

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| Kaveri Trust, B-60/61, C/o Bajaj Auto Limited, Naraina Industrial Area, Phase-II, New Delhi-110028. | <u>Vs</u> | Asstt. Director of Income-tax, CPC, Bengaluru. |
| PAN: AAATK 0416 G | | |
| APPELLANT | | RESPONDENT |
| Assessee represented by | Shri Vaibhav Jhunjhunwala, CA | |
| Department represented by | Shri Siddharth B.S. Meena, Sr. DR | |
| Date of hearing | 19.12.2024 | |
| Date of pronouncement | 19.12.2024 | |

ORDER

PER SATBEER SINGH GODARA, JM:

This assessee's appeal for assessment year 2020-21 arises against Commissioner of Income Tax (Appeals) ADDL/JCIT(A) Faridabad's DIN and order no. ITBA/APL/M/250/2024-25/1066245799(1), dated 29.06.2024, in case no. NFAC/2019-20/10073748, in proceedings u/s 143(1) of the Income-tax Act, 1961, hereinafter referred to as the 'Act'.

2. It emerges during the course of hearing that both the lower authorities have refused the assessee's claim of section 11 exemption for the sole reason that it had failed to file/upload its prescribed form 10B tax audit report within the due date of filing section 139(1) return of income.

3. The revenue fairly concedes that the assessee had indeed filed/uploaded its tax audit report on 12.07.2022. (page 44 in paper book).

4. I note in this factual backdrop that the instant issue is no more res-integra in light of CIT v. Xavier Kelvani Mandal Pvt. Ltd. [2014] 41 taxmann.com 184(Gujarat); CIT v. Gujarat Oil & Allied Industries (1993) 201 ITR 325 (Gujarat) wherein their lordships have already settled the issue at rest in assessee's favour and against the department holding that such a compliance as only directory than mandatory in nature which could even be made in first appellate proceedings before the CIT(A)/NFAC as well. I thus accept the assessee's instant sole substantive grievance in principle and direct the learned CIT(A)/NFAC to re-adjudicate its lower appeal on merits as per law preferably within three effective opportunities subject to a rider that it shall be the taxpayer's risk and responsibility only to plead and prove all the relevant facts within three effective opportunities in consequential proceedings. Ordered accordingly.

5. This assessee's appeal is allowed for statistical purpose in above terms.
Order pronounced in open court on 19.12.2024.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI