

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER**

ITA No.4632/Del/2024  
Assessment Year: 2016-17

Indian Fellowship of Former Scouts and Guides, 16 Mahatma Gandhi Marg, Post Bag No.7003 IP Estate, New Delhi	<b>Vs.</b>	Assistant Director of Income Tax, CPC, Ward-Exemption, Delhi
<b>PAN :AAATIO204L</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Prakul Khurana, Adv. & Sh. Mukesh Soni, Adv.
Department by	Sh. Sanjay Kumar, Sr. DR

Date of hearing	06.01.2025
Date of pronouncement	06.01.2025

**ORDER**

This assessee's appeal for assessment year 2016-17, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/APL/S/250/2024-25/1067578597(1), dated 13.08.2024 involving proceedings under section 143(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties. Case file perused.

3. It emerges during the course of hearing first of all that the learned CIT(A)/NFAC herein has rejected the assessee's lower appeal, instituted on 16.06.2023 against the CPC processing dated 03.01.2018, for want of a reasonable explanation of the corresponding delay of almost five years.

4. Faced with this situation, the assessee invites the tribunal's attention to the fact that it had preferred a section 154 rectification application after the CPC's above processing, which was rejected on the ground that CPC had rightly disallowed the assessee's section 11 exemption claim on account of belated filing of its tax audit report in Form 10B, followed by Covid-19 pandemic period which has already been directed to be excluded, as per hon'ble apex court's landmark decision in Cognizance for Extension of Limitation, in Re (2022) 441 ITR 722 (SC). Learned counsel's case regarding the further intervening period from 1<sup>st</sup> March, 2022 to 16<sup>th</sup> June, 2023, is that the assessee had duly filed its explanation in the lower appellate proceedings that the same was caused on account of various reasons beyond its control.

5. The Revenue vehemently contends that it was indeed incumbent for the assessee to file its Form 10B tax audit report

within the “due” date of filing section 193(1) return; and, therefore, it is not entitled for section 11 exemption as disallowed in the CPC’s processing herein.

6. It is in this factual backdrop and in the light of assessee’s explanation, the foregoing delay which was beyond the assessee’s control, stands condoned going by the hon’ble apex court judgment in Collector, Land & Acquisition vs. Mst. Katiji & Others (1987) 167 ITR 471 (SC).

7. The factual position would not be much different on merits as well as the learned lower authorities have refused sections 11 & 12 exemption to the assessee, which is already enjoying registration u/s 12A of the Act. It had filed tax audit report much after impugned “processing”. And the learned counsel clarifies these twin dates as 25<sup>th</sup> March, 2018 and 3<sup>rd</sup> January, 2018, respectively. Mr. Sanjay Kumar accordingly argues that the assessee is not entitled for condonation of delay in placing on record the tax audit report which is very much after the CPC’s “processing”.

8. I have given my thoughtful consideration to the foregoing rival contentions and see merit in the assessee’s case that various judicial precedents have settled the issue in it’s favour that filing of

such a tax audit report in form 10B is only directory than mandatory in nature. Case law CIT vs. Gujarat Oil and Allied Industries Limited (1993) 201 ITR 325 (Gujarat) and Sarvodaya Charitable Trust vs. ITO (Exemption) (2021) 125 Taxmann.com 75 (Guj-HC) is quoted in support. I accordingly accept the assessee's instant arguments in principle and restore it's appeal back to the CIT(A)/NFAC for afresh appropriate adjudication as per law, subject to a rider that the appellant shall positively plead and prove his case on merits within three effective opportunities, at it's own risk and responsibility, in consequential proceedings. Ordered accordingly.

9. This assessee's appeal is allowed for statistical purposes in above terms.

***Order pronounced in the open court on 6<sup>th</sup> January, 2025***

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 6<sup>th</sup> January, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi