

**IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH**

**BEFORE SHRI INTURI RAMA RAO, AM  
AND SHRI SOUNDARARAJAN K., JM**

**ITA Nos. 248 & 249/Coch/2024  
Assessment Years: 2021-22 & 2022-23**

Cochin Shipyard Employees Mutual ..... Appellant  
and Public Welfare Trust  
Perumanur, Ernakulam, Cochin 682015  
[PAN: AABTC2416M]

Vs.

The Income Tax Officer (Exemption) ..... Respondent  
Aayakar Bhavan, Old Railway  
Station Road, Kochi 682018

Appellant by: Shri K.T. Mohanan, CA  
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 02.01.2025  
Date of Pronouncement: 27.01.2025

**ORDER**

**Per: Inturi Rama Rao, AM**

These appeals filed by the assessee are directed against the orders of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 12.02.2024 for Assessment Years (AYs) 2021-22 & 2022-23.

2. Since identical issues are involved, these appeals are heard together and disposed of vide this common order for the sake of convenience.

3. Brief facts of the case are that the appellant trust is duly registered u/s. 12A of the Income Tax Act, 1961 (the Act). It was found with the object of providing education and medical facilities to weaker sections of the society. The return of income for AY 2021-22 was filed on 14.03.2022, i.e. well before the due date for filing the return of income, declaring total income of Rs. Nil after claiming exemption u/s. 11 of the Act. However, the prescribed audit report in Form 10B was not filed along with the return of income. The same was filed on 02.11.2022 with a delay of 260 days. The said return of income was processed u/s. 143(1) of the Act vide intimation dated 16.10.2022 denying the exemption u/s. 11 on the ground that the appellant trust has not e-filed the audit report in Form 10B within one month prior to the due date for filing the return of income u/s. 139(1) of the Act.

4. Being aggrieved, appeals were filed before the CIT(A), who vide the impugned order confirmed the prima facie adjustment made in the intimation by holding that unless Form 10B is filed before the specified date, exemption u/s. 11 cannot be granted, placing reliance on the provisions of section 12A of the Act.

5. Being aggrieved, the appellant is in appeal before us in the present appeals.

6. The learned A.R. submits that the application moved by the appellant trust for condonation of delay in filing the prescribed audit

report is pending before the Pr. CIT (Exemption), Kochi. Therefore, the matter may be kept in abeyance.

7. The learned Sr. DR did not oppose the submission of the learned A.R.

8. We have heard the rival contentions of both the parties and perused the material available on record. The appellant trust was duly registered u/s. 12A of the Act. The appellant filed the return of income before the due date prescribed u/s. 139(1) of the Act after claiming exemption u/s. 11 of the Act. However, admittedly the appellant trust had filed the prescribed audit report in Form 10B on 02.11.2022 whereas the return of income was processed u/s. 143(1) of the Act vide intimation dated 26.10.2022 after making adjustment by disallowance of claim for exemption u/s. 11 of the Act on the ground that the prescribed audit report was not filed before the specified date, i.e. one month before the due date for filing the return of income u/s. 139(1) of the Act. The condition of filing of audit report in the prescribed form, i.e. Form 10B is a condition precedent for filing claim u/s. 11 of the Act. The claim for exemption u/s. 11, in the absence of prescribed audit report, amounts to incorrect claim as defined under Explanation to sub-section (1) of section 12 of the Act. Therefore, we do not find any merit in the ground of appeal filed by the assessee. However, we make it clear that in case the application moved by the assessee for condonation of delay is

allowed by the learned Pr. CIT (Exemption), CPC shall amend the intimation accordingly by taking into consideration the order passed by the Pr. CIT u/s. 119(2)(b) of the Act.

9. In the result, the appeals filed by the assessee are dismissed.

Order pronounced in the open court on 27<sup>th</sup> January, 2025.

Sd/-  
**(SOUNDARARAJAN K.)**  
**JUDICIAL MEMBER**

Sd/-  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

Cochin, Dated: 27<sup>th</sup> January, 2025

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar  
ITAT, Cochin