



**IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, PANAJI**



**BEFORE HON'BLE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**AND**

**SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER**

**ITA No. 0203/PAN/2023**

**Assessment Year : 2017-18**

**COFRE DO FUNDO DA CRUZ ALTO DE BAMBOLIM**

101/1, Holy Cross Shrine,

Bambolim GMC Complex,

Bambolim, Goa-403202

PAN:AABTC0675N

*..... Appellant*

**V/s**

The Income Tax Officer,

Exemption Ward-1, Panaji.

*..... Respondent*

**Appearances**

Assessee by : Smt Pratibha R ['Ld. AR']

Revenue by : Mr Narendra Reddy ['Ld. DR']

Date of conclusive Hearing : 27/01/2025

Date of Pronouncement : 28/01/2025

**ORDER**

**PER G. D. PADMAHSHALI, AM;**

This appeal is instituted u/s 253(1) of the Income-tax Act, 1961

[for short 'the Act'] by the assessee challenging order passed u/s

250 of the by the National Faceless Appeal Centre, Delhi [for

short 'Ld. CIT(A)/NFAC'] which in turn upheld the best

judgement assessment order passed u/s 144 of the Act by the

Income Tax Officer, Exemption Ward-1, Panaji (Goa) [for short

'Ld. AO'], in relation to assessment year 2017-18 [for short

'AY']



2. Briefly stated facts of the case are that;

2.1 The assessee trust was identified a non-filer and was by issue of notice u/s 142(1) dt. 09/03/2018 was called upon to file return of income [for short 'ITR'] for assessment year 2017-18. In response thereto the assessee filed its on 10/09/2019 accompanying therewith the Form 10B dt. 20/10/2018 which was filed on 12/06/20219. The Ld. AO completed the u/s 144 of the Act by denying the exemption u/s 11 & 12 of the Act for not filing the ITR and audit report i.e., Form No. 10B within the due date prescribed u/s 139(4A) r.w.s. 139(1) of the Act.

2.2 Aggrieved assessee assailed former denial of exemptions on legal ground as well as on merits in appeal before first appellate authority u/s 246A(1) of the Act. The said appeal filed by the assessee came to be dismissed by the Ld. NFAC by reiterating the assessee's failure in furnishing the ITR and audit report within the prescribed due date u/s 139(4A) r.w.s. 139 of the Act.

2.3 In aforesaid circumstances, the assessee brought up its grievance in present appeal.



3. Without touching the grounds of appeal and merits of the case, the Ld. AR appearing on behalf of appellant trust submitted that, belated filing of ITR and form No 10B was the sole reason behind denial of exemption claim u/s 11 and 12 of the Act to the assessee. There was sufficient cause which prevented the assessee from filing the required ITR and Form 10B within the prescribed time limit, therefore the assessee trust applied for condonation of delay in filing such ITR & Form 10B and the same has be duly accepted by the Ld. CIT(E), Bengaluru. Pressing into service the certified copy of order dt. 07/03/2024 passed u/s 119(2)(b) of the Act by the Ld. CIT(E) the appellant stated that, the delay in filing the ITR and the audit report since condoned for the purpose of assessment, therefore the present appeal be adjudicated by setting aside the impugned orders of tax authorities below and remanding the matter back to the file of Ld. AO for passing order giving effect strictly in term of direction of the Ld. CIT(E). *Per contra* the Revenue has candidly solidified the factual position from the record and placed no objection in remanding the same to the Ld. AO.



4. The assessee's failure in furnishing ITR and audit report within the prescribed due date u/s 139(4A) r.w.s. 139 of the Act was the solitary reason in denying claim of exemption which is otherwise available to it. The delay of 672 days in filing the ITR and 582 days in filing Form 10B since condoned by the Ld. CIT(E) (supra), therefore consequential non-compliance of provision of section 12A(1)(b) of the Act is ceases to exist anymore. Once the non-compliance of provision of section 12A(1)(b) of the Act is effaced, then there remain no merits in continuing the orders of tax authorities below, therefore, set aside for its remand to the file of Ld. AO with a direction to pass an order giving effect strictly in terms of the direction given by the Ld. CIT(E) vide order passed u/s 119(2)(b) of the Act.

**8. In result, the appeal stands allowed for statistical purposes.**

In terms of rule 34 of ITAT Rules, the order pronounced in the open court the date mentioned hereinbefore.

**-S/d-**

**PAVAN KUMAR GADALE**  
**JUDICIAL MEMBER**

Panaji: 28th January, 2025

**Copy of the Order forwarded to :**

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|-------------------|-----------------------------------|------------------------------|
| 1. The Appellant. | 2. The Respondent.                | 3. The CIT(A)/NFAC Concerned |
| 4. PCIT Concerned | 5. DR, ITAT, Panaji Bench, Panaji | 6. Guard File                |

**-S/d-**

**G. D. PADMAHSHALI**  
**ACCOUNTANT MEMBER**

By Order,  
Sr. Private Secretary / AR ITAT, Panaji.