

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

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.1/Nag./2025**  
(Assessment Year : 2022-23)

Deendayal Seva Pratishthan  
Shakambhari, 5, Kale Layout  
Wadgaon Road, Yavatmal 445 001  
PAN – AAATD7507R

..... Appellant

v/s

Income Tax Officer  
Ward-4, Exemption, Nagpur

..... Respondent

Assessee by : Shri Kishore B. Phadke  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 04/03/2025

Date of Order – 21/03/2025

**ORDER**

**PER K.M. ROY, A.M.**

The instant appeal by the assessee is emanating from the impugned order dated 21/10/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2022-23.

2. In its appeal, the assessee has raised following grounds:-

*"1. Appellant trust contends that the learned DCIT, CPC, Bengaluru (hereinafter referred to as the learned AO) erred in law and on facts in assessing total income of the appellant trust at Rs. 3,19,98,103/-instead of NIL income declared in the return of income.*

*2. Appellant trust contends that Form 10B has been filed before filing the return of income and before due date u/s 139(1) of the ITA, 1961. As such all the compliances were ensured by the appellant trust and therefore eligible for exemption u/s 11 of the ITA, 1961 for the amount actually spent for.*

*3. The learned IT Authorities has erred both in law and facts of the case in holding that the appellant is eligible for deductions u/s 11 r.w.s.12A(1)(b) of*

*the Act only if audited accounts and form 10B are filed along with Return of income. Such conditional grant of benefit is against the true spirit intent of granting such benefit under the schemes of the Act.*

*4. The learned IT Authorities should have appreciated the fact that form 10B was filed within time and only approval by the appellant trust was completed later. Appellant trust contends that non filing/delay in filing Form No. 10B is merely a technical default and is curable."*

2. The facts of the case lie in a narrow compass as to whether late filing of Form no.10B can scuttle the claim of exemption. In this regard, the learned Authorised Representative for the assessee strongly submitted that the late filing of audit report is not total to claim exemption under sections 11 and 12 of the Income Tax Act, 1961 ("*the Act*"). We find that the learned CIT(A) has dismissed the very same proposition by relying upon the judgment of the Hon'ble Supreme Court in PCIT v/s Wipro Ltd., [2022] 446 ITR 1 (SC). The delay in condonation in filing of Audit Report in Form no.10B was also rejected by the learned CIT(E), Pune, for the assessment year 2022-23. It is seen that the Audit Report was filed on 28/09/2022, under section 12A(1)(b) of the Act, but the same was verified by the Trust on 28/10/2022, due to technical difficulties. The return of income was filed on 28/10/2022. The Trust has substantially complied with time limit of filing Form no.10B, as is evident from the affixture of digital signature by the Statutory Auditor. Thus, rejection of the same on a hyper-technical view is not countenanced simply because the approval was done belatedly. . Therefore, grounds no.2 and 3, are allowed. Consequently, ground no.1, is thus rendered infructuous and needs no separate adjudication.

3. In the result, appeal by the assessee is allowed.

Order pronounced in the open Court on 21/03/2025

**Sd/-**  
**V. DURGA RAO**  
**JUDICIAL MEMBER**

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**NAGPUR, DATED: 21/03/2025**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur