

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JM &
MS PADMAVATHY S, AM**

**I.T.A. No. 5185/Mum/2024
(Assessment Year: 2016-17)**

Mumbai APMC , 3rd Floor, Administrative Building, Sectgor-18, Vashi, Navi Mumbai-400703. PAN: AABTM6722G	Vs.	ACIT (Exemption), Circle-2, Piramal Chamber, Lal Baug, Parel, Mumbai-400012.
Appellant)	:	Respondent)

Appellant / Assessee by : Shri Kapil Harani (Hybrid)

Revenue / Respondent by : Smt. Sanyogita Nagpal, CIT-DR

Date of Hearing : 25.02.2025

Date of Pronouncement : 11.03.2025

ORDER

Per Padmavathy S, AM:

This appeal by the Assessee is against the order of The Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi (In short "The CIT (A)") dated 30/08/2024 for Assessment year (AY) 2016-17. The Assessee raised the following grounds of appeal:

"1. On the facts and circumstances of the case and in law, the assessment as completed is illegal, invalid, and violative of the principles of natural justice and which deserves to be quashed as per law and in the interest of justice.

2. On the facts and circumstances of the case and in law, the Appellant undisputedly being an Agricultural Produce Market Committee (APMC). the AO grossly erred in denying and the CIT(A) grossly erred in confirming the denial of the benefit of exemption under section 10(26AAB) of the Income Tax Act, 1961 to the Appellant which is statutorily allowable to the Appellant and which deserves to be allowed and the entire income of the Appellant deserves to be treated as exempt under section 10(26AAB) as per law and in the interest of justice.

3. Without prejudice, on the facts and circumstances of the case and in law the Appellant also being registered under section 12AA of the Income Tax Act, 1961, in case it is held that the Appellant is not eligible for the benefit of exemption under section 10(26AAB) as claimed, then the benefit of exemption under section 11 and 12 of the Income Tax Act, 1961 deserves to be allowed as per law and in the interest of justice which has been wrongly denied by the AO and further wrongly confirmed by the CIT(A).

4. On the facts and circumstances of the case and in law, under any case the entire income of the Appellant deserves to be treated as exempt as per law and in the interest of justice.”

2. The assessee incorporated in 1977 is a state Government Agricultural Produce Market Committee (APMC) formed under the aegis of the Maharashtra Agricultural Produce Marketing (Regulation) Act 1963. The income of the assessee is exempt under section 10(26AAB) that allows 100% exemption to the AMPC. The assessee filed the return of income for Assessment Year 2016-17 on 17/10/2016 declaring Nil income. The case was selected for scrutiny and the statutory notices were duly served on the assessee. The Assessing Officer (AO) while completing the assessment, held that the assessee being a society registered under section 12A cannot claim exemption under the provisions of section 10 and accordingly denied the exemption under section 10(26AAB). The AO also rejected the alternate plea of the assessee to allow exemption under section 11 stating that that the activities of the assessee are in the nature of trade and commerce and that the assessee claiming exemption under section 11 during the assessment

proceeding is not substantiated properly. Accordingly, the AO assessed the income of the assessee at Rs.19,85,78,350/-. Aggrieved, the assessee filed an appeal before CIT(A). The CIT(A) upheld the order of the AO by holding that the assessee being registered under section 12A is not eligible for exemption under section 10(26AAB). The CIT(A) also rejected the alternate plea of the assessee to allow exemption under section 11 for the reason that the same can be claimed only through filing a revised return of income. The assessee is in appeal against the order of the CIT(A) before the tribunal.

3. The ld.AR submitted that the assessee being an APMC is eligible for exemption under section 10(26AAB) inserted by Finance Act 2008. The ld.AR further submitted that the only reason for the AO to deny the exemption under section 10(26AAB) is that the assessee is registered under section 12A and that as per the provisions of section 11(7) a registered trust cannot claim exemption under section 10. The ld.AR argued that the assessee is statutorily eligible for exemption under section 10(26AAB) and the AO cannot reject the claim merely for the reason that the assessee holds a registration under section 12A. The ld.AR in this regard relied on a recent decision of the coordinate bench in assessee's own case for AY2017-18 and 2018-19 (ITA No.5613 and 5611/Mumbai/2024 dated 29/01/2025) where the coordinate bench has held that the assessee is eligible for exemption under section 10(26AAB).

4. The ld.AR on the other hand relied on the orders of the lower authorities.

5. We heard the parties and perused the material on record. We notice that the AO has denied the benefit of exemption under section 10(26AAB) to the assessee for the only reason that the assessee is registered under section 12A and that as per the provisions of section 11(7) the assessee cannot be allowed exemption under

section 10. We further notice that the coordinate bench in assessee's own case (Supra) has considered a similar issue where it has been held that

“4. The brief facts are that assessee has filed its return of income u/s.131 on 30/10/2018 for the A.Y.2018-19 claiming exemption u/s.10(26AAB) however, it has also filed revised return on 26/12/2018 alongwith Form 10B claiming exemption u/s.11. The ld. AO without considering that assessee is an Agricultural Produce Market Committee (APMC) created under the MAPM Regulation Act, 1963 with the aims and objects of to promote agricultural produce and its market and that income of the assessee is exempt u/s.10(26AAB) has proceeded to compute the total income. The ld. Assessing Officer referred to some old CBDT Circular dated 11 of 2010 dated 19/12/2008 and after invoking proviso to Section 2(15) has taxed the surplus amount. Ld. CIT (A) too has confirmed the addition.

5. Here in this case both the authorities have clearly missed the fundamental provisions governing the agricultural produce market committees. Earlier all the agricultural produce committees were treated as local authority u/s.10(20). Later on there was amendment u/s.10(20) w.e.f. 1.04.2003 and the scope of authorities falling u/s. 10(20) was limited. All these agricultural produce market committees then were required to get registered u/s.12A and they were entitled to claim benefit u/s.11 on the computation of income. Finally, the legislature introduced u/s.10(26AAB) w.e.f. 01/04/2009 wherein it was provided as under:-

“(26AAB) any income of an agricultural produce market committee or board constituted under any law for the time being in force for the purpose of regulating the marketing of agricultural produce”

6. Thus, any income of agricultural produce market committee or board were held to be non-taxable, i.e., while computing the total income, the same shall not be included in the total income. Once the entire income of the agricultural produce market committee or board is not included in the computation of total income u/s.10(26AAB), then whether assessee earlier had the registration u/s 12A prior to 01/04/2009 or was granted benefit u/s.11, then there is no relevance to invoke provision of Section 11 to 13. The Registration u/s.12A has no significance or relevance any more in case of agricultural produce market committee. Here the provision of section 11(7) will not be fetter because now per se any income from whatever source of the agricultural produce market committee is exempt and cannot be included in the computation of income and registration of 12A has no relevance at all. Its upto the Department to cancel or still recognize the certificate but so far as

APMC is concerned it is dead letter and it is out of any kind of taxing ambit under the Income Tax Act Thus, we hold that any income of the assessee cannot be included in the computation of income and the entire income is exempt under the Act. Accordingly, the order of the ld. AO in computing the income u/s.11 denying the benefit is hereby quashed.”

6. The facts for the year under consideration being identical we are of the view that the impugned issue is covered by the above decision of the coordinate bench. Accordingly, we hold that the assessee being an APMC is eligible for exemption under section 10(26AAB) and thus the AO is directed to allow the exemption claimed by the assessee in the return of income.

7. In result, the appeal of the assessee is allowed.

Order pronounced in the open court on 11-03-2025.

Sd/-
(AMIT SHUKLA)
Judicial Member

**SK, Sr. PS*

Sd/-
(PADMAVATHY S)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai