

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, COCHIN**

Before Shri Inturi Rama Rao, Accountant Member

ITA No.152/Coch/2025 : Asst.Year 2021-2022

Home of Love 29/155B Nethaji Nagar Colony Pulparathazham Road Kottoolli Kozhikode – 673 016. PAN : AAAAH5917J.	v.	The Income Tax Officer (Exemption) Kozhikode.
(Appellant)		(Respondent)

Appellant by : Sri.G.Surendranath Rao, CA

Respondent by : Smt.Leena Lal, Senior AR

Date of Hearing : 13.03.2025	Date of Pronouncement : 27.03.2025
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ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Assessment Centre / Commissioner of Income-tax (Appeals) [“CIT(A)” for short] dated 20.12.2024 for the assessment years 2021-2022.

2. The appellant is a charitable institution, duly registered under the Societies Registration Act. It is also registered u/s.12AB of the Income-tax Act, 1961 (“the Act” hereinafter). The return of income for the assessment year 2021-2022 was filed by the appellant on 7th January, 2022 disclosing Nil income after claiming deduction u/s.11 of the Act. The said return of income was processed by the CPC u/s.143(1) vide intimation dated 10th August, 2022, as a matter of record. Form No.10B was filed digitally on 1st March, 2022. Subsequently, the CPC issued

notice u/s.154 of the Act dated 7th March, 2023 proposing to deny the exemption u/s.11 of the Act by stating that Form 10B was not filed within prescribed time. Accordingly, rectification order u/s.154 was passed by the CPC denying the exemption u/s.11.

3. Being aggrieved, an appeal was filed by the appellant before the CIT(A), contending that the CPC had grossly erred in passing the rectification order *suo moto* without giving an opportunity to the appellant. The learned Counsel for the assessee further submitted that there were no mistakes apparent from record, which can be rectified by exercising the power vested with it u/s.154 of the Act. However, the CIT(A), by taking note of the fact that the revised Form 10B was filed on 1st March, 2022, which was beyond the due date for filing the return of income u/s.139(1) of the Act for the year under consideration, confirmed the action of the CPC.

4. Being aggrieved, the appellant is in appeal before me in the present appeal. It is submitted that the time limit prescribed for the furnishing of Form 10B is only directory in nature and the same is available at the time of processing the return by the CPC, and therefore, the CPC ought not have exercised the *suo moto* power to pass rectification order u/s.154 of the Act without affording an opportunity of being heard to the appellant. In this connection, he relied on the following judgments:-

- (i) Mary Queens Mission Hospital v. CIT (E) 167 Taxmann.com 379 (Ker.)
- (ii) Associated Chambers of Commerce and Industry of India v. DCIT (2024) 165 taxmn.com 510 (Delhi)

- (iii) Association of Panelboard Manufacturer v. DCIT (2023) 157 taxmann.com 550 (Guj.)
- (iv) Shri Panchmurti Education Society v. ITO (2025) 171 taxmann.com 546 (Nagpur-Trib.)
- (v) VARDhman Stanakvasi Jain Shrivak Trust v. ITO (2025) 172 taxmnn.com 165 (Ahmedabad-Trib.)

5. On the other hand, the learned Senior DR placing reliance on the orders of the authorities below submits that no interference is called for therein.

6. I heard the rival submissions and perused the material available on record. The issue in the present appeal is whether the CPC was justified in denying exemption u/s.11 of the Act by exercising his power u/s.154 by amending the intimation issued u/s.143(1) of the Act. It is an admitted fact that Form 10B was very much available at the time of processing the return of income by the CPC. The CPC originally processed the return of income u/s.143(1) accepting the returned income and granted exemption u/s.11 of the Act. Thereafter, the CPC amended the intimation *suo moto* u/s.154 without affording an opportunity of hearing to the appellant and denied the exemption u/s.11 on the ground that Form 10B was belatedly filed digitally. In my considered opinion, the time limit prescribed for submission of Form 10B is only directory in nature and not a mandatory condition as held by the Hon'ble High Court of Delhi in the case of *Associated Chambers of Commerce and Industry of India v. DCIT (2024) 165 taxmann.com 510 (Delhi)* and Hon'ble Gujarat High Court in the case of *Association of Panelboard Manufacturer v. DCIT (2023) 157 taxmann.com 550 (Gujarat)*. In the present case, Form 10B was very much available at the time of

processing the return of income and as a result no prejudice is caused to the Department on account of delayed digital filing of Form 10B. Furthermore, passing *suo moto* rectification u/s.154 of the Act without giving an opportunity of being heard to the appellant is against the principles of natural justice and provisions of sec.154 of the Act. Therefore, the rectification order passed by the CPC is not valid in law. Accordingly I quash the same and restore the original intimation issued by the CPC.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced on this 27th day of March, 2025.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Cochin; Dated : 27th March, 2025.
Devadas G*

Copy to :

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

Asst.Registrar/ITAT, Cochin