

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.139/RPR/2025
निर्धारण वर्ष / Assessment Year : 2022-23

IIT Bhilai Innovation and Technology Foundation
Old Dhamtari Road, Sejbahar,
Government Engineering College Campus,
Raipur (C.G.)
PAN: AAFCI9961E

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer-1(1),
Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Shri S.L Anuragi, CIT-DR

सुनवाई की तारीख / Date of Hearing : 24.04.2025

घोषणा की तारीख / Date of Pronouncement : 24.04.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM:**

The captioned appeal preferred by the assessee emanates from the order of the Ld.ADDL/JCIT(A)-6/NFAC, Kolkata dated 08.01.2025 for the assessment year 2022-23 as per the grounds of appeal on record.

2. The relevant facts in this case are that the assessee filed return of income which was processed u/s.143(1) of the Income Tax Act, 1961 of the Act by the A.O/CPC, Bengaluru making certain adjustments over and above the returned income. The only issue involved in this case is that the assessee had claimed exemption u/s.11 of the Act against income earned by it which was disallowed by the A.O/CPC as per intimation u/s. 143(1) of the Act.

3. The assessee is provisionally registered u/s.12A of the Act vide certificate in Form 10AC, dated 22.11.2021 issued by the jurisdictional Commissioner. During the year, the assessee had failed to utilize 85% of its income towards objects of the trust, therefore, as per Section 11(2) of the Act r.w.Rule 17(2) of the Income Tax Rules, the assessee was required to submit Form 10 before the jurisdictional A.O on or before due date of filing return of income prescribed u/s.139(1) of the Act. In the present case, extended due date of filing return of income was 07.11.2022 but the assessee filed Form 10 only on 06.09.2023. Since the assessee delayed in

filing Form 10, the A.O/CPC, Bengaluru had denied benefit of exemption u/s.11 of the Act. The same was upheld by the Ld. CIT(Appeals)/NFAC.

4. At the time of hearing, the Ld. Counsel submitted that regarding condonation of delay in filing Form 10, the assessee has filed petition before the concerned Pr. Commissioner of Income Tax and proceedings are going on. That from the Bench, it was informed to the Ld. Counsel that such delay in filing of Form 10 and condonation thereof is not within the periphery of jurisdiction of the Tribunal. This can only be condoned by the revenue authority/competent authority. This was accepted by the Ld. Counsel.

5. Per contra, the Ld. CIT-DR supported the findings of the revenue authorities.

6. We are of the considered view that in this case admittedly, there has been delay in filing Form 10 by the assessee, for which, the A.O/CPC had denied benefit of exemption u/s.11 of the Act. The Ld. Counsel for the assessee has made statement at bar saying that they are exploring possibility of adjudication on the condonation of delay in filing Form 10 before the revenue authority. When in any case, such condonation of delay in filing of Form 10 is outside the adjudicative jurisdiction of the Tribunal, in such case, keeping the matter pending before the Tribunal will not serve

any logical purpose. That as accepted and admitted by the Ld. Counsel, such condonation of delay in filing of Form 10 can only be adjudicated by the revenue authority/competent authority, in this regard, the Ld. Counsel submitted that the appeal may be treated as withdrawn with a rider that in case, the assessee fails to achieve logical end as per law then it may be permitted to restore the appeal. We had already opined that condonation of such delay in filing Form 10 is outside the adjudicative jurisdiction of the Tribunal and such matter can only be dealt with by the revenue authority/competent authority. Nonetheless, keeping in view the prayer of the assessee, we dismiss the appeal as withdrawn by it with a rider that the assessee may file for restoration of this appeal as per law if the matter is within adjudicative jurisdiction of the Tribunal.

7. As per the above terms, grounds of appeal raised by the assessee stands dismissed as withdrawn.

8. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 24th April, 2025.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 24th April, 2025.

***SB, Sr. PS

आदेश की प्रतिलिपि अग्रहित / Copy of the Order forwarded to :

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.