

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

**ITA No. 5/Agr/2023
(Assessment Year 2015-16)**

Ehsaas, G-192, Anhantam, Patel Nagar, Gwalior, Madhya Pradesh-474001	Vs.	CIT(A)/NFAC, Delhi
स्थायीलेखासं/.जीआइआरसं/.PAN/GIR No: AAATE1715G		
Appellant	..	Respondent

Appellant by :	Sh. Alok Dhingra, Adv.
Respondent by :	Sh. Shailender Shrivastava, Sr. DR

Date of Hearing	12.02.2025
Date of Pronouncement	12.02.2025

ORDER

PER SATBEER SINGH GODARA, JUDICIAL MEMBER:

This assessee's appeal for assessment year 2015-16 arises against Commissioner of Income Tax(Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and Order No. ITBA/NFAC/S/250/2022-23/1046448981(1) dated 21.10.2022, involving proceedings u/s 154 of the Income-tax Act, 1961, [hereinafter referred to as the 'Act'].

2. Heard both the parties at length. Case file perused.

3. It emerges during the course of hearing that both the lower authorities have rejected the assessee's section 11 exemption claim on account of its failure in filing/uploading the prescribed tax audit report in Form 10B on or before the "due" date of filing return u/s 139(1) of the Act. The Revenue vehemently submits that it was indeed incumbent for the assessee to file its above tax audit report within the prescribed time so as to be treated as eligible section 11 exemption.

4. We have given our thoughtful consideration to the assessee's and Revenue's respective stands against and in support of the impugned disallowance. Suffice to say, case law CIT Vs. Xavier Kelavani Mandal (P.) Ltd. (2014) 41 taxmann.com 184 (Guj.) has already settled the issue in assessee's favour and against the department that the above compliance of Form 10B is a directory than a mandatory provision. We further reiterate the fact that the assessee herein had very well file/uploaded its tax audit report before the processing done u/s 143(1) of the Act (supra). That being the case, we hold that the assessee is indeed eligible for section 11 exemption and direct the learned Assessing Officer to finalize afresh computation as per law.

5. The assessee's appeal is allowed.

Order pronounced in the open court on 12.02.2025

Sd/-
(Manoj Kumar Aggarwal)
ACCOUNTANT MEMBER

Sd/-
(Satbeer Singh Godara)
JUDICIAL MEMBER

Dated 12.02.2025

PS: Rohit/Subodh, Sr. PS