

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'बी' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad

श्री मंजूनाथ जी, माननीय लेखा सदस्य एवं श्री रवीश सूद, माननीय न्यायिक सदस्य
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

आयकरअपीलसं./I.T.A.No.188/Hyd/2025
(निर्धारण वर्ष/ Assessment Year:2022-23)

The Income Tax Officer, Exemption Ward, Tirupati.	Vs.	Sri Sri Sri Paramapitha Sri Venkat Ramanachary Guruvu Charitable Trust, Dharmavaram, Andhra Pradesh. PAN : AACTP3275E
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri K. A. Sai Prasad, C.A.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Ms. Reema Yadav, Sr.DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	30.04.2025
घोषणा की तारीख/ Date of Pronouncement	:	06.05.2025

ORDER

प्रति रवीश सूद, जे.एम./PER RAVISH SOOD, J.M.

The present appeal filed by the Revenue is directed against
the order passed by the Addl/JCIT (A)-1, Mumbai, dated

18.10.2024 which in turn arises from the intimation issued by the CPC, Bangalore u/s 143(1) of the Act. The Revenue has assailed the impugned order on the following grounds of appeal before us:

“1. The Ld. Addl.CIT(A) erred in law and ignored the fact that the Act provided a facility to the assessee to file Form-10B(Audit Report) belatedly, but such delay in filing Form-10B can only be condoned by the CIT(Exemptions) and not by CIT(A)/Addl.CIT(A).

2. The Ld. Addl.CIT(A) erred in law and ignored the fact that the assessee has to file Form-10B(Audit Report) one month prior to the due date for furnishing the return of income u/s.139(1) of IT Act, 1961, which is specified as mandatory in the Act under the provisions of section 12A(1)(b) of the Income Tax Act, 1961.

3. The Ld. Addl.CIT(A) erred in law by holding that the expenditure claimed by the assessee u/s 11 of the Act is correct in the absence/non-filing of Audit Report in Form-10B within the stipulated time.”

2. As the present appeal involves a delay of 36 days, therefore, the Revenue has filed an application dated 03.02.2025 seeking condonation of the same along with a supporting affidavit. On a perusal of the aforesaid application, it transpires that the delay involved in the appeal is stated to have crept in due to certain administrative constraints and other system related issues in the ITBA. It is stated that as the delay in filing of the present appeal had occasioned not for any *malafide* reasons, but for certain reasons which were beyond the control of the appellant/revenue, therefore, the same in all fairness be condoned.

3. Considering the aforesaid facts, we are of the view that as the delay involved in the present appeal is not inordinate and there are *bonafide* reasons explaining the same, therefore, the same merits to be condoned.

4. Succinctly stated, the assessee trust had filed its return of income for A.Y 2022-23 on 21.10.2022 declaring an income of Rs. Nil after claiming deduction u/s 11 of the Act.

5. As the assessee trust had not filed its Audit Report in Form 10B and was not registered u/s 12AB of the Act for the subject year, therefore, the A.O. proposed an adjustment u/s 143(1)(a) of the Act seeking disallowance of its claim for exemption u/s 11 of the Act. Although, the assessee trust had filed its response to the seeking of the withdrawal of its claim for exemption u/s 11 of the Act, but the A.O vide his intimation issued u/s 143(1) of the Act, dated 13.04.2023, declined the same and brought the entire amount of its gross receipts to tax and determined its income at Rs.10,88,590/-.

6. Aggrieved the assessee trust carried the matter in appeal before the CIT(A), who finding favor with the contentions vacated the

declining of its claim for exemption u/s 11 of the Act, observing as under:

Decision:

The assessee Trust, on 21.10.2022, filed its return of income for A.Y.2022-23, declaring total income of Rs Nil, after claiming deduction u/s 11 of the Act.

The Deputy Commissioner of Income Tax, CPC, initiated proceedings under Sec. 143(1) of the Act, to examine whether the Assessee is entitled to the deduction under Sec. 11 of the Act.

· The Assessing Officer observed that the Assessee did not file tax audit report in Form 10B and was also not registered u/s 12AB of the Act. Therefore, the Assessing Officer proposed to disallow the deduction claimed u/s 11.

· The Assessing Officer on 13.04.2023, issued Intimation under Sec. 143(1) of the Act, bearing DIN: CPC/2223/A7/326099349, wherein it denied the deduction claimed by the assessee under Sec. 11 of the Act, the entire gross receipts were brought to tax as income and total income was determined at Rs 10,88,590/-.

· Aggrieved against the said order, the present appeal is preferred before me, on the ground of appeals mentioned below:

1. The order of the Assessing officer is not correct both in the facts and in law.
2. The Assessing Officer is not justified in bringing a sum of Rs 10,88,590/- as income in the hands of the Assessee.
3. The Assessing Officer ought to have appreciated the assessee was previously

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registered under Sec. 12A and would be covered by Sec. 12A(1)(ac)(i) of the Act. Therefore, in terms of 1st proviso to Sec. 12A(2), the Assessee is deemed to be registered under Sec. 12AB, from 01.04.2013, i.e., its previous date of registration.

4. The Assessing Officer ought to have appreciated that, in terms of the 2nd proviso to Sec. 12A(2), the assessee is deemed to be registered under Sec. 12AB for Assessment Year 2022-23.

5. In facts and circumstances of the case, the Assessing Officer ought to have granted deduction under Sec. 11 of the Act, since the Assessee obtained Form 10B before the due date, though, the same was not filed.

6. The Assessing Officer is not justified in taxing the entire receipt of Rs 10,88,590/- without allowing the deduction of revenue expenditure

I. Registration u/s 12AB

· It is submitted that pursuant to the amendment u/s 12A, the Central Board of Direct Taxes has been extending the time limit for filing Form 10A and obtaining registration. The CBDT, vide circular 6/2023, dated 24.05.2023, extended the time limit to file Form 10A upto 30.09.2023. Further, vide para 8 of the said circular, the Board granted the Assessee who missed the above deadline and opted for provisional registration, to surrender the said registration and make an application in Form 10A to obtain registration under clause (i) of Sec. 12A(1)(ac) of the Act.

· The assessee has surrendered the provisional registration and applied for registration u/s 12A(1)(a)(c)(i) of the Act.

· Further, DIT, CPC, Bangalore, vide Form 10AC, dated 28.07.2023, granted 12A registration to the Assessee from Assessment Year 2022 – 23 to Assessment Year 2026-27. It is submitted that, in terms of the aforesaid registration u/s 12A of the Act, granted in Form 10AC, the Assessee is entitled to the benefit of Sec. 11 for the impugned Assessment Year.

II. Filing of form 10B

· The Assessing Officer denied the entire amount claimed as application of income, i.e., revenue expenditure (Rs. 3,82,000/-), capital expenditure (Rs. 5,96,223/-), and income accumulated or set apart (Rs. 1,10,367/-) on the ground that Assessee did not furnish audit report in Form 10B.

· It is submitted that, the Assessee obtained Form 10B duly signed by a Chartered Accountant. However, the accountant of the Assessee misunderstood the provision and was under the impression that the same is not necessary to be uploaded since

the Assessee's income was below Rs 2,50,000/-.

It is also submitted that the Assessee on 12.09.2023, filed audit report under Form 10B. The Assessee humbly requested to consider the tax audit report and accordingly allow the expenditure claimed by the Assessee.

In light of the of above submissions made by the assessee and after verifying audit report, it is found that the claim expenditure claimed by the assessee u/s.11 of the Act is correct and accordingly **appeal of the assessee is allowed.**

7. The Revenue being aggrieved with the order of CIT(A), has carried the matter in appeal before us.

8. The Ld. Authorized Representative (for short "ld.AR") for the assessee trust, at the threshold of hearing of the appeal, submitted that as the "tax effect" involved in the present appeal filed by the revenue is below the prescribed monetary ceiling contemplated in the CBDT Circular No.09/2024 (F.279/Misc./M074/2024-ITJ), dated 17/09/2024, therefore, the same is not maintainable and is liable to be dismissed on the said count itself.

9. Per contra, Ms. Reema Yadav, the learned Senior Departmental Representative (for short "the ld. DR") fairly admitted that as the "tax effect" involved in the present appeal was below the monetary ceiling limit contemplated in the CBDT Circular No. 09/2024

(supra), therefore, the appeal filed by the Revenue was not maintainable.

10. Considering the fact that the “tax effect” involved in the present appeal filed by the revenue is below the prescribed monetary ceiling of Rs. 60 lac provided in the CBDT Circular No. 09/2024 (supra), we dismiss the same as not maintainable. Before parting, we may herein observe that in case, if the appeal filed by the Revenue is found to be covered by any of the exceptions carved out as regards the applicability of the aforesaid CBDT Circular No. 09/2024 (supra), then the revenue will be at liberty to seek restoration of the same.

11. Resultantly, the appeal filed by the Revenue is dismissed as not maintainable in terms of our aforesaid observations.

Order pronounced in the Open Court on 6th May, 2025.

<p>Sd/- (मंजूनाथ जी) (MANJUNATHA G.) लेखा सदस्य/ACCOUNTANT MEMBER</p>	<p>Sd/- (श्री रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER</p>
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Hyderabad, dated .05.2025.

TYNN/sps

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Sri Sri Sri Paramapitha Sri Venkat Ramanachary Guruvu Charitable Trust, No.24-622-1, Siddaiah Gutta, Beside RTC Bus Stand, Dharmavaram - 515671 Andhra Pradesh.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Exemption Ward, Tirupati.
3.	The Principal Commissioner of Income Tax (Exemptions), Hyderabad		
4.	विभागीयप्रतिनिधि, आयकर अपीलिय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad*By Order*