

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'F' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.858/Mum/2025
(Assessment Year :2018-19)**

Jijau Shikshanik Va Samajik Sanstha At Zadpoli Post Ondhe, Vikramgad Dadade B.O. Rampur Thane - 410 605	Vs.	CIT-Appeal, Addl/JCIT(A)-1, Delhi
PAN/GIR No.AABTJ2431M		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Ms. Kavitha Kaushik, Sr. DR
Date of Hearing	05/05/2025
Date of Pronouncement	23/05/2025

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 25/11/2024 passed by Addl./JCIT-1 in relation to the intimation u/s.143(1) for the A.Y.2018-19.

2. The brief facts are that assessee is a registered charitable trust u/s.12A and has filed its return of income u/s. 139(4A) on 18/12/2018 declaring 'nil' income. After showing application

u/s. 11(1)(a) of Rs. 3,86,07,093/-, and also there was unutilized surplus of Rs. 52,28,108/-, for which assessee had claimed exemption u/s.10AA for the year under consideration. However, the audit report in Form 10B was not filed alongwith return of income and was uploaded subsequently on 17/12/2019. The Id. CPC while processing the return of income issued an intimation on 30/03/2021 raising tax demand of Rs.2,21,16,320/- on the ground that assessee did not file audit report alongwith return of income. Although the audit report in Form 10B was uploaded on 17/12/2019 much prior to processing of return in CPC, however, the same was not considered. It has been stated that the trust was under the bonafide belief and presumption that Form No.10B has been uploaded online alongwith return of income, however, later on it came to know that the inadvertently audit report was not uploaded alongwith return by the staff. Ld. JCIT has dismissed the appeal on the ground that failure to file audit report in Form No.10B in time which is a mandatory requirement, the disallowance made by the Id. CPC cannot be interfered with.

3. Before us Id. Counsel for the assessee submitted that assessee has filed petition for condonation of delay in filing of audit report in Form 10B which is still pending and moreover, the delay in filing of the audit report was unintentional and it was an inadvertent mistake and due to lack of technical staff with the assessee trust. Otherwise it has duly complied with the provision of Section 11(1)(a) by applying funds of more than 85%. Apart from that, Form 10AB audit report has ultimately been

filed much prior to date of issuance of intimation and in such a case, first appellate authority should have condoned the delay and directed the ld. CPC to consider the audit report.

4. Since assessee has filed petition for condonation of delay in filing of Form 10B, therefore, we direct the ld. CIT (E) to consider the application by taking a liberal view looking to the facts and circumstances of the case that already assessee has complied with the requirement of filing of audit report and once it is already part of the record and merely because there was some venial breach, the benefit otherwise available to the assessee under the Act should not be denied. Since power of condonation of delay has been given to CIT (E) by the CBDT, therefore, we are not deciding this appeal or condoning the delay in filing of the audit report. Accordingly, the appeal of the assessee is dismissed as infructuous, however, with a direction to the CIT (E) to consider the petition for condonation of delay and condone the delay.

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

Order pronounced on 23rd May, 2025.

Sd/-
(PRABHASH SHANKAR)
ACCOUNTANT MEMBER

Mumbai; Dated 23/05/2025
KARUNA, sr.ps

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai