

(One) (B) आयकर अपीलीय अधिकरण
कटक पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
CUTTACK BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री दुव्वुरु आरएल रेड्डी, उपाध्यक्ष (कोलकाता क्षेत्र)
एवं

श्री राकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI DUVVURU RL REDDY, VICE PRESIDENT (KZ)
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 67/CTK/2025
Assessment Year: 2022-23**

Women Organisation for Socio Cultural Awareness	Vs.	ITO (Exemption), Cuttack
(Appellant)		(Respondent)
PAN: AAAAW0417G		

Appearances:

Assessee represented by : B.V.R. Swamy, AR.

Department represented by : Ashim Kumar Chakraborty, CIT DR.

Date of concluding the hearing : May 6th, 2025

Date of pronouncing the order : May 22nd, 2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Addl/JCIT(A)-9, Mumbai [hereinafter referred to as 'the Ld. Addl./Joint CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2022-23 dated 25.07.2024, which has



been passed against the intimation order u/s 143(1) of the Act, dated 29.12.2023.

1.1. The Registry has informed that the appeal filed by the assessee is barred by limitation by 116 days. An application seeking condonation of delay has been filed by the assessee stating as under:

“01 That this application arises out of the Income Tax Appeal filed by the assessee causing a delay of 120 days in filing the appeal.

02. That the Petitioner is an Income Tax assessee. It filed the Audit Report in Form No. 10B for the financial year 2021-22 relevant to assessment year 2022-23 on 07.02.2023 vide Acknowledgement No. 950014350070223. The Petitioner ought to have filed the above report on or before 07.10.2022 as against of which it filed the same on 07.02.2023 causing a delay of 122 days.

03. That the Petitioner filed the updated return of its income in Form No. ITR-U on 13.02.2023 vide Acknowledgement No. 954690300130223 under section 139(8A) of the Act which is a specific provision for filing the return of income belatedly within 24 months from the end of the assessment year.

04. That taking advantage of the delay committed by the assessee in filing the Audit Report in Form No. 10B within the due time, the Assessing Officer disallowed deduction of the whole of the amount of Rs. 9,58,96,328 applied in various projects and computed the total income of the assessee at Rs. 10,13,15,635 and raised a demand in the total amount of Rs. 6,99,70,607 in the Intimation under section 143(1) of the Act vide DIN: CPC/2223/B7/410451517 dated 29.12.2023 together with Demand Reference No: 2023202237232529401T

05. That aggrieved by the computation of income and the demands raised as stated in Para-04 above, the assessee carried appeal to the Commissioner of Income Tax (Appeals).

This apart the assessee made an application under section 119(2)(b) of the IT Act to the Commissioner of Income Tax (Exemptions), Hyderabad for condonation of the delay committed in filing the Audit Report in Form No. 10B.

06. That the Notice under section 250 of the IT Act for hearing in the appeal was issued to which the assessee requested to keep the matter in abeyance till disposal of the application for condonation of delay by the Commissioner

(Exemptions), Hyderabad. But the ADDL/JCIT(A)-9, Mumbai passed Order dated 25.07.2024 and dismissed the appeal holding it infructuous in view of the application for condonation of delay before the Commissioner (Exemptions), Hyderabad. The appellate Order was communicated to the assessee on 25.07.2024. The assessee remained under bonafide belief that the Commissioner (Exemptions), Hyderabad would condone the delay in filing the Audit Report in Form No. 10B, but the assessee received the Order rejecting the application for Condonation of delay

07. That the Order of the Commissioner (Exemptions) prompted the assessee to seek the remedy available to it. Upon consultation of the provisions of law the assessee found it expedient to prefer this appeal before the Hon'ble Tribunal seeking appropriate relief against the computation of its income under section 143(1) of the IT Act. Thereafter, the assessee made over the papers to Sri B.V. Ranganath Swamy, Advocate, Cuttack on 04.01.2025 who took 10 days' time to prepare this appeal. The assessee also attempted on 15.01.20025 and 17.01.2025 to e-file the appeal, but on both the occasions it remained unsuccessful due to technical reasons. Therefore finding no other alternative it is submitting the appeal through Post.

08. That the assessee received the order of the ADDL/JCIT(A)-9 on 25.07.2024, therefore it ought to have filed this appeal on or before 23.09.2024. But for the reasons stated at Para-07 above a delay of 120 days has been caused in filing this appeal before the Hon'ble Tribunal.

09. That the delay caused in filing this appeal is unintentional, unavoidable and beyond the control of the assessee. The assessee shall suffer irreparable loss and shall be deprived of natural justice if the delay in filing this appeal is not condoned.

Hence, this humble petition before the Hon'ble Tribunal to condone the delay of 120 days caused in filing this appeal.”

1.2. Considering the application for condonation of delay and the reasons stated therein, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeal within the statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:



“1. That the income of the assessee for the year ended on 31/03/2022 relevant to the assessment year 2022-23 computed at Rupees 10,13,15,635 as against the income returned at NIL is erroneous, improper, unjustified and other wise bad in law.

2. That the CPC(ITR) erred and he is not justified in not allowing deduction for the income in the total amount of Rs. 9,58,96,328 applied to charitable purposes in India in the year ended on 31/03/2022.

3. That the Assessing Officer erred and he is not justified in not granting the exemption of the income claimed in the Updated return of income filed under section 139(8A) of the IT Act without accepting that the Audit Report in Form No. 10B has been filed before 30 days from the due date for filing the return prescribed under the above section.”

3. Brief facts of the case are that the assessee is a trust and had filed its return of income for A.Y. 2022-23 on 19/10/2022 declaring nil income after claiming exemption u/s 11 of the Act. The AO, CPC while processing the return of income determined the income at Rs. 74,01,571/-. The exemption claimed was denied as also the application of funds towards objects of the Trusts was not been allowed. Aggrieved with the intimation, the assessee preferred an appeal before the Ld. Addl./Joint CIT(A), who, vide order dated 25.07.2024, dismissed the appeal. It is held in the appeal order that the appellant has already filed an application for condonation of delay in filing Form No. 10B for the A.Y. 2022-23 on 29/01/2024 before the CIT(E), Hyderabad and the proceedings in the matter are in progress. The appeal is thus rendered infructuous and has been dismissed. Aggrieved with the order of the Ld. Addl./Joint CIT(A), the assessee has filed the appeal before the Tribunal.

4. Rival submissions were heard and the record and the submissions made have been examined. It was submitted by the Ld. AR before the Bench that Form No. 10B which ought to have been filed on or before 7



October 2022 was filed late on 7 February 2023 and was delayed by 122 days and the exemption claimed was denied by the CPC. It was submitted that the gross income had been computed as the total income and no deduction for the amount applied for charitable purposes has been allowed. Form No. 10B is stated to be have been filed within the extended date of filing of the return of income and was filed on 7 February 2023. The Ld. AR requested that the matter for condonation of delay in filing Form No. 10B was pending before the Ld. CIT(E) and a request was made to keep the hearing in abeyance before the Ld. Addl./Joint CIT(A) but the same was not allowed nor the benefit of deduction for the expenditure made was allowed. The updated return was processed on 13 February 2023 and as section 12(1)(b) was not complied with, the exemption claimed was not allowed. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.

5. We have heard the rival submissions, gone through the facts of the case and perused the record and the documents submitted. The audit report was filed late on Form No. 10B; however the same was available at the time of preparation of the intimation under section 143(1) by the CPC, Bengaluru. The assessee has relied upon the decision in the case of Commissioner of Income Tax (Exemptions) V. Anjana Foundation R/Tax Appeal No. 989 of 2024 order dated 09/10/2024 of the Hon'ble Gujarat High Court wherein the order of the Tribunal which relied upon the decision in the case of Association of Indian Panel Board Manufacturer v. DCIT reported in [2023] 157 taxmann.com 550 (Gujarat) has been confirmed wherein it has been held that the exemption claimed under section 11 cannot be denied



even if Form No. 10B is filed at a later stage. In the case of Association of Indian Panel Board Manufacturer(supra), it has been held that filing of Form No. 10B along with the return of income is only a procedural requirement and cannot be treated as a mandatory requirement for the purpose of claiming exemption under section 11 and 12 of the Act and even if it is filed at a later stage, the assessee is entitled for the exemption claimed. Hence, since the assessee had filed Form No. 10B before the return was processed, the exemption claimed was allowable. Hence, the order of the Ld. Addl./Joint CIT(A) is hereby set aside and the matter is remitted back to the Ld. Assessing Officer for considering the Form No. 10B as well as the updated return of income filed and allow the exemption claimed under section 11 of the Act as per law. All the three grounds of appeal are, therefore, allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 22nd May, 2025.

Sd/-

[Duvvuru RL Reddy]
Vice President (KZ)

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 22.05.2025

Bidhan (P.S.)



Copy of the order forwarded to:

1. **Women Organisation for Socio Cultural Awareness, Munda, P.O./Dist.-Keonjhar, Odisha, 758014.**
2. **ITO (Exemption), Cuttack.**
3. Addl/JCIT(A)-9, Mumbai.
4. CIT-
5. CIT(DR), Cuttack Bench, Cuttack.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata