

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.2615/M/2025
Assessment Year: 2019-20**

M/s. Keli Cultural Association, 201, Baba Niwas, Plot No.74, Sector-19, Nerul, Navi Mumbai- 400706 PAN: AAATK5289K	Vs.	CIT(A), ADDL/JCIT (A)-2, Hyderabad
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Nikhil Natekar, Ld. A.R.
Revenue by : Shri P D Chougule, Ld. Sr. D.R.

Date of Hearing : 05.06.2025
Date of Pronouncement : 05.06.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 15.02.2025, impugned herein, passed by the Ld. Addl./Joint Commissioner of Income Tax (Appeals) (in short "Ld. Addl./Joint Commissioner") under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2019-20.

2. Though the Assessee had failed to file the audit report in Form 10B within the prescribed time limit due to bonafide mistake of the Ld. Chartered Accountant of the Assessee, as it appears from duly sworn affidavit dated 23.05.2025 (available in paper book at pages No.168-170), however, the same was filed belatedly with a delay of 48 days along with the said affidavit but admittedly before the date of processing the return of income, vide intimation/order dated 26.03.2021 u/s 143(1) of the Act by the CPC/AO and therefore the same could not have been side-lined, which both the authorities have done.

Thus, in view of the judgment of the Hon'ble Gujarat High Court in the case of CIT vs. Gujarat Oil and Allied Industries Ltd. (1993) 201 ITR 325 (Guj.) wherein the Hon'ble High Court was pleased to hold **“that provision regarding furnishing of audit report with the return, has to be treated as a procedural proviso, as it is directory in nature and its substantial compliance would suffice the purpose. The benefit of exemption should not be denied merely on account of delay in furnishing the audit report and it is permissible for the Assessee to produce the audit report at a later stage either before the Income Tax Officer or before the appellate authority by assigning sufficient cause”**, the appeal of the Assessee is liable to be allowed, specifically in view of the fact that the Assessee in this case has, demonstrated plausible and reasonable cause for delay in filling of audit report, with duly sworn affidavit. Consequently, the AO is directed to recompute the tax liability, while considering claim of the Assessee lodged u/s 11 & 12 of the Act.

3. Thus, the appeal of the Assessee is allowed in the aforesaid terms.

Order pronounced in the open court on 05.06.2025.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. PS
Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.