

**IN THE INCOME-TAX APPELLATE TRIBUNAL “C” BENCH,  
MUMBAI**

**BEFORE SHRI BEENA PILLAI, JUDICIAL MEMBER  
&  
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 3192/MUM/2025  
(A.Y. 2021-22)**

ITO(Exemptions)-2(2) 614, 6 <sup>th</sup> Floor, MTNL Building, Cumballa Hill, Peddar Road, Mumbai-400026.	Vs.	P N Amersey Educational Trust Laburnum House, Laburnum Road, Grant Road S.O, Mumbai-400007.
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAATP0038K</b>		
<b>Appellant</b>	<b>..</b>	<b>Respondent</b>

&

**CO No. 143/MUM/2025  
(Arising out of ITA No. 3192/MUM/2025)**

P N Amersey Educational Trust Arvind House, CS NO180/1, Quay Street, Darukahana-400010.	Vs.	ITO(Exemptions)-2(2) 614, 6 <sup>th</sup> Floor, MTNL Building, Cumballa Hill, Peddar Road, Mumbai-400026.
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAATP0038K</b>		
<b>Appellant</b>	<b>..</b>	<b>Respondent</b>

Appellant by :	Ms. Kinjal Bhuta
Respondent by :	Mr. Virabhadra S. Mahajan, Sr. DR

Date of Hearing	18.06.2025
Date of Pronouncement	24.06.2025

## आदेश / ORDER

### PER RENU JAUHRI [A.M.] :-

This appeal is filed by the revenue challenging the order of the ADDL/JCIT (A)-6, Delhi [hereinafter referred to as "CIT(A)"] dated 12/03/2025 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment Year [A.Y.] 2021-22, against which cross-objection is also filed by the assessee.

2. The revenue has raised the following grounds of appeal:

*"1. Whether on facts and circumstances of the cases and in law, the Ld. CIT(A) was justified in granting relief beyond the scope of ground raised which was "the disallowance of exemption u/s 11 of the Income Tax Act, 1961 was made without affording any opportunity AO to be heard when it is clear from the order that notice was given before adjustment \*?"*

*2. Whether on facts and circumstances of the cases and in law, the Ld. CIT(A) was justified in granting relief of exemption u/s.11 of the Act, merely on the basis of lack of natural justice whereas as per ROI filed the registration was not valid and renewal was made subsequently?"*

*3. Whether on facts and circumstances of the cases and in law, the Ld. CIT(A) was justified in allowing relief on the basis of natural justice and without going into and discussing the merits of the case and also without seeking any remand report from the Assessing Officer to bring on records the correct facts about the reasons and opportunity granted while making adjustment u/s 3(1) of the Income-tax Act?"*

3. The assessee has raised the following grounds in its cross-objection:

*"1. The Id. ADDL/JCIT(A)-6, Delhi erred in not appreciating that claim of exemption u/s. 11 cannot be denied in the intimation u/s. 143(1). That such action is beyond the jurisdiction and scope of section 143(1) of the Income Tax Act, 1961.*

*2. The Id. ADDL/JCIT(A)-6, Delhi erred in not allowing the appeal on the contention that the exemption u/s. 11 of the Income Tax Act, 1961 ought to have been granted as per the proviso to Section 12A (2) of the Act.*

*3. Without Prejudice the Id. ADDL/JCIT(A)-6, Delhi erred in appreciating that the audit report in Form 10B was filed before the due date of filing of return of income. That the filing of the audit report is directory and not mandatory, and cannot be the reason to deny exemption u/s. 11 of the Income Tax Act, 1961.*

*4. Without Prejudice to the above, the Id. ADDL/ JCIT(A)-6, Delhi erred in not adjudicating on the ground that if the exemption is not granted, then at least the amount applied towards objects of the trust ought to be allowed as expenditure.*

*5. The Id. ADDL/JCIT(A)-6, Delhi erred in not adjudicating on the ground of incorrect levy of interest u/s. 234C of Rs. 3,73,059/-.*

*6. The appellant craves leave to add, amend, alter, or delete any of the above grounds of cross objections.”*

4. Brief facts of the case are that the assessee is a charitable trust which filed its return for A.Y. 2021-22 on 25.10.2018, declaring Nil income. The case was processed u/s. 143(1) whereby CPC added a sum of Rs. 2,38,68,846/- to the assessee's income by denying the benefit of section 11 of the Act on account of non-availability of registration certificate. Aggrieved with the order of the CPC, the assessee preferred an appeal before the Ld. CIT(A), who has decided the same in favour of the assessee vide appellate order dated 12.03.2025. It has been held by Ld. CIT(A) as under:

*“.....The primary contention of the appellant revolves around the denial of exemption under Section 11 due to non-compliance with the new registration requirements under Section 12AB. The appellant had been previously registered under Section 12A vide registration number TR/24725, dated 18.11.1985, and had continuously availed of exemption in past years. Due to amendments in the Act, trusts were required to obtain*

*fresh registration under Section 12AB. The appellant asserts that the original deadline to apply for fresh registration, which was 31.08.2020, was extended multiple times owing to the COVID-19 pandemic, with the final extension provided by CBDT Circular No. 16/2021, dated 29.08.2021, extending the deadline to 31.03.2022. Since the return filing due date for AY 2021-22 was 15.03.2022, the appellant contends that its old registration remained valid at the time of filing the return. Further, the appellant subsequently applied for new registration and was granted provisional registration in Form 10AC on 12.05.2022, well before the date of issuance of intimation under Section 143(1). Since the return was filed on 15.03.2022, prior to the extended deadline for obtaining registration under amended provisions, the contention of the appellant holds merit and denial of exemption on this ground is unjustified.*

*Another crucial argument raised by the appellant is that the intimation order dated 23.08.2022 disallowed the exemption on the ground that registration details were not provided in the ITR, whereas the initial adjustment notice under Section 143(1)(a) had proposed disallowance due to a delay in filing Form 108. This discrepancy in reasoning violates the principles of natural justice as no opportunity was provided to the appellant to respond to the ground actually used for disallowance in the final intimation. The appellant, relying on case laws such as *Gangji Shamji Chedda Charitable Trust v. DCIT* [ITA No. 1528/Mum/2022] and *Arham Pumps v. DCIT* [2022] 140 taxmann.com 204 (Ahmedabad-Trib.), contends that an adjustment under Section 143(1) cannot be made without issuing a proper intimation notice specifying the exact grounds for disallowance. Since the appellant was given a different reason in the adjustment stage and another in the final intimation, the appeal is allowed on this ground that the addition was made without citing the correct issue in the adjustment notice and without providing an opportunity to the appellant to respond to the final reasoning.*

*6.2 In the result the appeal is allowed.”*

5. Aggrieved with the order of Ld. CIT(A), the department has filed an appeal before the Tribunal, while the assessee has filed its cross-objections. Before us, Ld. DR argued that there was a delay in the filing of Form 10B, due to which CPC had proposed disallowance of the claim of exemption u/s. 11 u/s. 143(1)(a) of the Act. Further, the application for provisional registration was filed on 30.04.2022, and the same was granted on 12.05.2022 for the AYs.

2023-24 to 2025-26. Accordingly, the assessee was denied exemption u/s. 11 of the Act, as for the year under consideration, the assessee did not have valid registration. Accordingly, the CPC had rightly rejected the claim u/s 11 and determined the income of Rs. 2,38,68,846/- u/s 143(1) of the Act.

6. Ld. AR, on the other hand, pointed out that the notice for adjustment u/s. 143(1)(a) was given on a different ground from the ground on which disallowance was finally made in the intimation. In the notice proposing the adjustment, the CPC mentioned the reason for the proposed disallowance as belated filing of Form 10B, which was mandatorily required to be submitted one month before the due date of filing of the return. However, at the time of making the adjustment, the exemption u/s. 11 was disallowed on the ground of non-compliance with the new registration requirements u/s. 12AB of the Act. Since the impugned adjustment was made without giving any opportunity to the assessee with regard to the issue in question, it effectively amounts to not providing any opportunity before making the adjustment. It has further been explained by the Ld. AR that the CBDT had extended the deadline to apply for fresh registration, therefore the application for provisional registration was filed within the extended time by the assessee. Till then the assessee's old registration granted u/s. 12A vide order dated 18.11.1985 remained valid under which it had continuously availed exemption in earlier years.

7. We have heard the rival submissions and perused the materials placed before us. There is merit in the contentions of the assessee that till the grant of provisional registration under the new scheme, its previous registration

continued to be valid. Further, no adjustment u/s. 143(1)(a) could have been made without giving proper opportunity to the assessee. However, it is clear from the documents furnished before us that the proposed adjustment (on the ground of belated filing of Form 10B) was different from the adjustment finally made u/s. 143(1)(a) of the Act, which means that no opportunity was provided to the assessee to explain the impugned addition on account of non-submission of the registration certificate. Accordingly, we hold that the decision of the Ld. CIT(A) that 143(1)(a) adjustment could not be made without providing proper opportunity is correct and does not call for any interference.

8. In the result, the revenue's appeal is dismissed, and the cross-objection of the assessee is allowed.

Order Pronounced in Open Court on 24.06.2025

Sd/-

(BEENA PILLAI)

(JUDICIAL MEMBER)

Sd/-

(RENU JAUHRI)

(ACCOUNTANT MEMBER)

Place: Mumbai

Date 24.06.2025

Anandi. Nambi/STENO

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,  
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

**आयकर अपीलीय अधिकरण/ ITAT, Bench,  
Mumbai.**