

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'D' BENCH, CHENNAI  
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष ।  
Before Shri S.S. Viswanethra Ravi, Judicial Member &  
Shri Jagadish, Accountant Member

आयकर अपील सं./I.T.A. No.1226/Chny/2025  
निर्धारण वर्ष/Assessment Year: 2018-19

Gangavalli Educational Trust,  
9/636, Pallakadu, Naduvalur,  
Gangavalli, Salem 636 105.

Vs. The Income Tax Officer,  
Exemptions Ward,  
Salem.

**[PAN:AABTG8124A]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T.S. Lakshmi Venkataraman, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri Vijay Kumar, JCIT  
सुनवाई की तारीख/ Date of hearing : 18.06.2025  
घोषणा की तारीख /Date of Pronouncement : 30.06.2025

**आदेश / O R D E R**

**PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order dated 19.02.2025 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi for the assessment year 2018-19.

2. The assessee raised 4 grounds of appeal amongst which, the only issue emanates for our consideration as to whether the Id. CIT(A)

is justified in confirming taxation of entire gross receipts by rejecting Form 10B filed belatedly in the facts and circumstances of the case.

3. We note that the assessee filed return of income on 18.01.2019 for AY 2018-19 declaring NIL income. The assessee has shown annual receipts at ₹.1,29,81,684/- and claimed exemption under section 10(23C)(iiiad) of the Income Tax Act, 1961 ["Act" in short]. According to the Assessing Officer, the assessee filed statutory Form 10B on 13.01.2020, i.e., after processing of return of income and passing intimation order under section 143(1) of the Act dated 02.10.2019. When the Assessing Officer specifically asked about condonation of delay in filing Form 10B, the assessee has submitted that an application dated 20.03.2020 has been filed before the Commissioner of Income Tax (Exemption), Salem for condonation of delay for filing of Form 10B belatedly. Since the application for condonation of delay for filing of Form 10B is still pending before the Commissioner of Income Tax (Exemption), Salem, the Assessing Officer adopted the total income at ₹.1,29,81,684/- as was determined in the intimation order under section 143(1) of the Act dated 02.10.2019 and completed the scrutiny assessment under section 143(3) r.w.s. 144B of the Act dated 17.04.2021. On appeal, the Id. CIT(A) confirmed the addition made by

the Assessing Officer and dismissed the appeal of the assessee for non-compliance to the hearing notices issued by the Id. CIT(A).

4. The Id. AR Shri T.S. Lakshmi Venkataraman, F.C.A., pending condonation of delay in filing Form 10B, submits that the requirement of submission of Form 10B along with the return though is one of the conditions for claiming the benefit of section 11 & 12 of the Act, it is directory and not mandatory. For this preposition, the Id. AR relied on the decisions of Hon'ble High Court of Calcutta in the case of CIT v. Rai Bahadur Bissesswarlal Motilal Malwasie Trust (1992) 195 ITR 825 and the decision of the Hon'ble High Court of Gujarat in the case of CIT v. Gujarat Oil & Allied Industries (1993) 201 ITR 325. By filing copy of 12AA registration certificate dated 13.06.2016, the Id. AR submits that the assessee is entitled for exemption under section 11 & 12 of the Act. By filing income computation sheet, income and expenditure account and balance sheet along with depreciation schedule for the year ended 31.03.2018, the Id. AR vehemently argued that there is no positive income to be assessed for taxation and it will only result in excess of expenditure over income and in support of his submissions, the Id. AR relied on various case law by filing written submissions dated 11.06.2025 and prayed that directions may be given to the

Assessing Officer to recompute the income after allowing depreciation not claimed by the assessee in the income and expenditure account.

5. The Id. DR Shri Vijay Kumar, JCIT drew our attention to page 4 of the impugned order and submits that despite various opportunities afforded, the assessee could not make any submissions in respect of claims made in the grounds of appeal. The Id. DR further submits that the matter may be remanded to the file of the Id. CIT(A) to wait for the receipt of condonation of delay in filing Form 10B from the competent authority.

6. Heard both the parties and perused the material available on record. In this case, we note that the assessee filed return of income on 18.01.2019 and in order to claim exemption, the assessee filed Form 10B on 13.01.2020 belatedly, after processing of return of income and passing intimation under section 143(1) of the Act dated 02.10.2019. We also note that the assessee made submission before the Assessing Officer that the assessee filed an application dated 20.03.2020 for condonation of delay for filing Form 10B. Pending decision on the condonation application, the Assessing Officer adopted income of the assessee as was determined in the intimation order

under section 143(1) of the Act dated 02.10.2019 and completed the scrutiny assessment. Though the assessee has raised specific ground at ground No. 7 that the Assessing Officer should have computed the income of the assessee as a normal business entity on the basis of income and expenditure account, instead of assessing entire gross receipts as income of the assessee, but, before the Id. CIT(A), the assessee could not file any written submissions or documentary evidences or complied with the hearing notices issued by the Id. CIT(A). The Id. AR filed income computation sheet, income and expenditure account and balance sheet along with depreciation schedule for the year ended 31.03.2018, and argued that only net income has to be taxed and not gross receipts after consideration depreciation, there will not be positive income to be assessed for taxation, in the interest of justice, we direct the Assessing Officer to consider the issue afresh by considering the documentary evidences as may be filed by the assessee to substantiate its claim. The assessee is also directed to furnish complete details before the Assessing Officer. Thus, the grounds raised by the assessee are allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 30<sup>th</sup> June, 2025 at Chennai.

Sd/-  
(JAGADISH)  
ACCOUNTANT MEMBER

Sd/-  
(S.S. VISWANETHRA RAVI)  
JUDICIAL MEMBER

Chennai, Dated, 30.06.2025

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.