

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH**

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 438/Coch/2025
Assessment Year: 2014-15**

St. Francis Xaviers Forance Church, Appellant
Kandakadavu, Andikkadavu (PO),
Kannamali, Kochi.
[PAN: AADTS 3622 B]

vs.

ITO (Exemptions),
Ernakulam, Kochi Respondent

Appellant by: Shri Anil Kumar P J, Advocate
Respondent by: Smt. Leena La, Sr. DR

Date of Hearing: 21.07.2025
Date of Pronouncement: 31.07.2025

ORDER

This appeal filed by the assessee is directed against the order of the ADDL/JCIT(A)-2, Noida [CIT(A)] dated 31.03.2025 for Assessment Year (AY) 2014-15.

2. Brief facts of the case are that the assessee is a charitable religious institution, duly registered u/s. 12AA of the Income Tax Act, 1961 (for short, 'the Act'). The return of income for the A.Y. 2014-15 was filed on 18/03/2016 declaring income of

Rs.50,46,417/-. The said return of income was processed by CPC u/s. 143(1) of the Act vide intimation dated 24/10/2016 by disallowing accumulated income of Rs. 33,61,981/- u/s. 11 of the Act.

3. Being aggrieved by the said intimation, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO by holding that Form No. 10 for accumulation, only filed on 18/03/2016 and was not filed within the time limit prescribed in section 139(1) of the Act.

4. Being aggrieved, the assessee is in appeal before the Tribunal in the present appeal.

5. It is submitted that filing of Form 10 within the due date prescribed u/s. 139(1) of the Act is only directory and not mandatory. Therefore, accumulated income u/s. 11(2) of the Act cannot be disallowed. In support of his contention, the following reliance have been placed:

- (i) M/s. Kalyan Educational Society vs. ACIT [2023 (8) TMI 1336 – ITAT, Kolkata]
- (ii) M/s. Shree Swami Samarth Seva Kendra vs. ITO [2023 (11) TMI 397 – ITAT, Mumbai]
- (iii) CIT vs. Nagpur Hotel Owners Association [2000 (12) TMI 99 – SC]

(iv) ITO vs. Industrial Roadway [2007 (3) TMI 292 – ITAT, Bombay-K]

6. I consider the rival submissions and perused the material on record.

7. The CPC while processing return of income had denied the claim of the assessee for accumulation of income u/s. 11(2) of the Act on the ground that prescribed form i.e. Form 10 was not filed within the due date prescribed in section 139(1) of the Act. Undisputedly, the audit report along with return of income is filed belatedly. It is a settled position of law that time limit for filing of Form 10 & 10B are directory in nature and, therefore I direct the CPC to amend the intimation by allowing the accumulation income.

8. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 31st July, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 31st July, 2025

vr/-

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin