

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

**BEFORE SHRI MS. KAVITHA RAJAGOPAL, JM  
AND  
SHRI OMKARESHWAR CHIDARA, AM**

ITA No. 3467 to 3469/Mum/2025  
(Assessment Year: 2016-17 to 2018-19)

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| <b>Uttarpratha Trust</b><br>38, Vatsa House, 5 <sup>th</sup> Floor, S. A. Brelvi<br>Road, Fort, Mumbai. | Vs. | <b>Dy. Commissioner of Income Tax,<br/>Central Circle 5(3), Mumbai</b> |
| <b>PAN/GIR No. AAATU0527G</b>   |     |  |
| <b>(Appellant)</b>  | :   | <b>(Respondent)</b>  |

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|----------------------|---|--|
| <b>Assessee by</b>   | : | Shri Rashmikanth Modi/Ms. Ketkki<br>Raj Shirke |
| <b>Respondent by</b> | : | Shri Vivek Perampura, SR DR                    |

|                              |   |            |
|------------------------------|---|------------|
| <b>Date of Hearing</b>       | : | 16.07.2025 |
| <b>Date of Pronouncement</b> | : | 31.07.2025 |

**ORDER**

**Per Kavitha Rajagopal, J M:**

These appeals filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) 53, Mumbai ('Id. CIT(A)' for short), passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2016-17 to 2018-19.

2. As the facts are identical in all these appeals, we hereby take ITA No. 3467/Mum/2025 as a lead case.

**ITA No. 3467/Mum/2025; A.Y. 2016-17**

3. The assessee has raised the following grounds of appeal:

*1. Grounds challenging denial of exemption under section 11 and 12 due to procedural lapse:*



*On the facts and in the circumstances of the case and in law, the Hon'ble Commissioner of Income Tax (Appeals) erred in upholding the action of the Learned Assessing Officer of denying the exemption claimed u/s 11 and 12 of the Income Tax Act, 1961 solely on the ground that the audit report in Form 108 was not electronically filed on or before the due date of filing the return of income, without appreciating that e filing of Form 10B is only a procedural requirement for claiming exemption u/s 11 and 12 of The Income Tax Act, 1961.*

*The Appellant submits that the delay being procedural lapse be condoned and exemption claimed u/s 11 and 12 be granted.*

*2. Without prejudice to the main ground of appeal raised,*

*On the facts and in the circumstances of the case and in law, the Appellant submits that the establishment expenses of Rs. 34,000/- be allowed as deduction while computing the Total Income without giving effect of exemption u/s 11 of The Income Tax Act, 1961.*

*3. On the facts and in the circumstances of the case and in law, the Appellant submits that the Learned Assessing erred in assessing the income without deducting the Returned Income of Rs. 26,810/- as per the Return of Income filed u/s 153C.*

*The Appellant submits the returned income of Rs. 26,810/- be deducted from the assessed income.”*

4. Brief facts of the case are that the assessee is a charitable trust registered u/s. 12AB of the Act and had filed its return of income dated 01.10.2016, declaring total income at Rs. Nil. Pursuant to the search action carried out in the PPCO Group (Political Parties and Charitable Organization of Ahmedabad) dated 02.02.2021. Notice u/s. 153C of the Act dated 02.06.2022 was issued to the assessee and in response to which the assessee filed its return of income dated 01.12.2022, declaring total income at Rs. 26,810/-. Notice u/s. 143(2) and 142(1) of the Act were duly issued and served upon the assessee. The learned Assessing Officer (ld. A.O. for short) observed that the assessee had paid donation of Rs. 6 lacs to All India Social Education Charitable Trust during the year



under consideration for which the ld. AO sought explanation as to why the same should not be disallowed as being bogus transaction. The ld. AO rejected the assessee's contention and for the reason that Shri. Tribhawan Ramkalp Ojha who is the president of Kisan Adhikar Party and Trustee of All India Social Education Charitable Trust in his statement on oath u/s. 132(4) of the Act dated 02.02.2021 has explained the *modus operandi* of receiving 0.5% commission on bogus donations, where the remaining would be returned back to the original donor through various intermediaries and dummy entities. The ld. AO disallowed Rs. 6 lacs on the alleged bogus donation u/s. 11 of the Act and further, the ld. AO held that as the assessee had not filed form 10B within specified due date, thereby denying the exemption claimed u/s. 11 and 12 of the Act, vide assessment order dated 29.12.2022 passed u/s. 143(3) r.w.s. 153C of the Act.

5. Aggrieved the assessee was in appeal before the first appellate authority, who had dismissed the appeal filed by the assessee by deleting the disallowance on bogus donation of Rs. 6 lacs on the ground that there was no documentary evidence to show that the assessee has received back the cash against the donation paid and further the ld. AO has not made any independent enquiry as to the said bogus transaction and had merely relied on the third party statement without any corroborative evidence. The ld. CIT(A) also placed reliance on the decision of the Jurisdictional Tribunal in the case of *ACIT vs. Anand Jaikumar Jain [2023] 147 taxmann.com 125*. The ld. CIT(A) further denied the assessee's exemption claimed u/s. 11 and 12A of the Act, for the reason that the assessee not filed audit report in form 10B within the due date of filing of return.



6. Aggrieved by this, the assessee is in appeal before us, challenging the denial of exemption claimed u/s. 11 and 12A of the Act.
7. We have heard the rival submissions and perused the materials available on record. The moot issue that requires adjudication is whether the assessee is entitled to claim the exemption u/s. 11 and 12A of the Act, where form 10B was filed belatedly after the due date of filing of returns. The learned Authorised Representative ('ld. AR' for short) for the assessee had extensively relied on the decision of the coordinate bench in the case of *Shri Bhairav Seva Samiti [2023] 149 taxmann.com 478 (Mumbai Trib.)*, where on identical facts this issue was decided in favour of the assessee.
8. On perusal of the said decision, it is observed that the Hon'ble Jurisdictional High Court in the case of *CIT vs. Xavier Kalavani Mandal (P.) Ltd. reported in (2014) 41 taxmann.com 184 (2014)*, where the Hon'ble High Court has directed to allow the claim of exemption u/s. 11A even when the assessee has filed the audit report in form 10B at a later stage either before the ld. AO or even before the appellate authority by explaining that there was 'sufficient cause' for the delay and if the assessee has satisfied the other conditions for claiming the benefit of exemption. This view has also been reiterated by the Hon'ble Gujrat High Court in the case of *Sarvodaya Charitable Trust vs. Income Tax Officer (Exemption) [Gujrat High Court] [278 Taxmann 148]*.
9. On perusal of the above said decisions, it is observed that it is a settled proposition of law that the delay in filing form 10B could be condoned and grant of exemption cannot be denied merely on this ground when the assessee has satisfied the other procedural requirement for claiming exemption. By respectfully following the above judicial



precedents, we hereby direct the ld. AO to condone the delay and to grant the benefit of exemption to the assessee on the merits and in accordance with law, if the assessee satisfies the condition prescribed for claiming the said exemption. Hence, the grounds raised by the assessee are hereby allowed on the above terms.

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

**ITA No. 3468 & 3469/Mum/2025; (Assessment Year: 2017-18 & 2018-19)**

11. The findings recorded in ITA No. 3467/Mum/2025 will apply mutatis mutandis to this appeal also.

12. In the result, these appeals filed by the assessee are hereby allowed.

*Order pronounced in the open court on 31.07.2025*

Sd/-  
(OMKARESHWAR CHIDARA)  
ACCOUNTANT MEMBER

Sd/-  
(KAVITHA RAJAGOPAL)  
JUDICIAL MEMBER

Mumbai; Dated: 31.07.2025  
Karishma J. Pawar (Stenographer)

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai