

आयकर अपीलीय अधिकरण  
दिल्ली पीठ "एस एम सी", दिल्ली  
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC", DELHI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं.821/दिल्ली/2025 (नि.व. 2023-24)  
ITA No.821/DEL/2025 (A.Y. 2023-24)

Delhi Neurological Association,  
R.No. 529, Academic Block,  
Department of Neuro Surgery,  
Darya Ganj, Delhi 110002  
PAN: AAAJD-0582-E  
बनाम Vs.

..... अपीलार्थी/Appellant

Income Tax Officer, Ward-Exemption 1(3),  
Delhi

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/Appellant by : None  
प्रतिवादीद्वारा/ Respondent by : Shri Manoj Kumar, Sr. DR

सुनवाई की तिथि/ Date of hearing : 20/05/2025  
घोषणा की तिथि/ Date of pronouncement: : 13/08/2025

आदेश/ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)/Additional/Joint Commissioner of Income Tax(Appeals)-Patna (hereinafter referred to as 'the CIT(A)') dated 24.12.2024, for Assessment Year 2023-24.

2. Brief facts of the case as emanating from records are: The assessee is registered u/s. 12A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). The assessee filed its return of income for the impugned assessment year declaring NIL income. The return of the assessee was processed u/s. 143(1) of the Act on 29.10.2024 making addition of Rs.20,18,585/- as the mandatory Audit

Report in Form 10BB was not filed within specified due date. Aggrieved by the addition, the assessee filed appeal before the CIT(A). Before the First Appellate Authority, the assessee explained that Audit Report in Form 10BB was furnished on 25.10.2023 i.e. within the extended period as specified by CBDT vide Circular No.16/2023 dated 18.09.2023. The CIT(A) dismissed appeal of the assessee and confirmed the addition.

3. Submissions made by Id. DR heard, orders of the authorities below examined. The solitary grievance raised by the assessee in appeal is denial of benefit u/s. 11 & 12 of the Act for alleged delay in filing of Audit Report in Form 10BB. The case of the assessee is that the assessee filed Audit Report in Form 10BB within the extended time along with audited balance sheet and return of income on 25.10.2023. The CBDT vide Circular No.16/2023 (supra) had extended due date for filing Form 10BB from 30.09.2023 to 31.10.2023. However, there was one procedural lapse that the Audit Report was first required to be uploaded by the Auditor on e-filing portal of the Department and then it is to be accepted by the assessee. Due to inadvertence, the assessee failed to accept that Audit Report. Inadvertent error was rectified by the assessee on 09.11.2023.

The Revenue has not disputed filing of Form 10BB by the assessee. The Revenue has denied benefit of section 11 & 12 of the Act to the assessee as Form 10BB was filed beyond due date. Filing of Audit Report in prescribed Form 10BB is a mandatory requirement, which the assessee has complied with. The assessee has filed Audit Report within extended time as provided by the CBDT vide Circular No. 16/2023 however, the only flaw in filing of the said report was that the assessee was required to accept the Auditors Report uploaded by the auditor, which the assessee did on 09.11.2023 i.e. after the extended timeline. The

assessee has complied with substantive provisions in filing of Form 10BB within the due date. It is only the procedural lapse in not accepting Auditors Report uploaded by the Auditor. The benefit of section 11 & 12 of the Act cannot be denied to the assessee for the procedural defect which was rectified subsequently. The AO is directed to allow benefit of section 11 & 12 of the Act to the assessee.

4. In the result, impugned order is *set aside* and appeal of the assessee is allowed.

Order pronounced in the open court on Wednesday the 13<sup>th</sup> day of August, 2025.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 13/08/2025

NV/-

**प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar) ITAT, DELHI