

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ "ए", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री नरेन्द्र प्रसाद सिन्हा, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Shri Narendra Prasad Sinha, Accountant Member

आयकर अपील सं./ITA No.491/Ahd/2025
निर्धारण वर्ष /Assessment Year : 2019-20

Sarvajanik Kelavani Mandal Amroli Station Utran Choryasi Surat - 394 107 (Gujarat)	<u>बनाम/</u> <u>v/s.</u>	The DDIT, CPC, Bengaluru Juris.AO The Dy.CIT, Circle-2, Exemption Ward Ahmedabad - 380 015
स्थायी लेखा सं./PAN: AABTS 4579 B		

(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :		Shri Sapnesh Sheth, CA
Revenue by :		Shri Alpesh Parmar, CIT-DR

सुनवाई की तारीख/Date of Hearing : 14/08/2025
घोषणा की तारीख /Date of Pronouncement: 18/08/2025

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order of the office of the Commissioner of Income Tax (Appeals) (NFAC) Addl/JCIT (A)-2, Ludhiana [hereinafter referred to as 'CIT(A)'] dated 30/12/2024 passed for Assessment Year (AY) 2019-20 .

2. There is a short delay of four days in filing the present appeal. A separate application along with Affidavit of trustee of the appellant has been filed for condonation of delay. Considering the averments made in the

application as well as the shortness of delay, the delay in filing the appeal is hereby condoned.

3. The assessee in this appeal has taken the following grounds:

1. *On the facts and circumstances of the case as well as law on the subject, the Id. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre has erred in confirming the action of learned ADIT, (CPC) in making huge addition by disallowing the amount of Rs.8,46,07,149/- claimed as application of income and by disallowing Rs.40,99,536/- as accumulation of income on the ground that audit report in Form 10B has been uploaded belatedly.*
2. *It is therefore prayed that above addition made by assessing officer and confirmed by Commissioner of Income-tax (Appeals), NFAC may please be deleted.*
3. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.*

4. Brief facts of the case are that the assessee is a charitable-trust registered u/s.12A of the Income Tax Act, 1961 (hereinafter referred to as "the Act"). The assessee-trust filed its return of income for the assessment year under consideration on 31/10/2019 declaring a total income of Rs.NIL, after claiming exemption u/s.11 of the Act. The said return was processed u/s.143(1) of the Act by the CPC, whereby, the exemption claimed by the assessee u/s.11 of the Act, was denied on the ground that the assessee had not attached with the return of income and the relevant document of registration of the aa u/s.12A of the Act.

5. Being aggrieved by the said order of the CPC, the assessee preferred appeal before the CIT(A). The Ld.CIT(A), though, found that the assessee was a validly registered charitable-trust u/s.12A of the Act, however, he observed that the assessee-trust was obliged to file the Audit Report in Form 10B before the due date as mandated in the Income Tax Act for filing of the

same. He further observed that the due date of furnishing of the ITR for AY 2019-20 was 31/10/2019 and, accordingly, due date of furnishing of Form 10B was 20/09/2019, i.e. prior to one month before due date for furnishing return u/s.139(1) of the Act. He observed that the assessee, however, had filed the Form 10B along with return of income on 31/10/2019, which was beyond due date of furnishing of Form 10B. He, therefore, upheld the order of the AO denying the claim exemption u/s.11 of the Act, but for different reason.

6. Being aggrieved by the said order of the Ld.CIT(A), the assessee is in appeal before this Tribunal.

7. At the outset, the Ld.Counsel for the assessee invited our attention to relevant provisions of section 12A(1)(b) of the Act, to submit that since the total income of the assessee-trust exceeded the maximum amount which was not chargeable to income-tax, the accounts of the assessee-trust were required to be audited and further that a report in Form 10B was to be submitted by the specified date as mentioned u/s.44AB of the Act. The Ld.Counsel further inviting our attention to relevant provisions of section 44AB of the Act, has demonstrated that as per the Explanation provided therein, the specified date for furnishing of Audit Report for AY 2019-20 was the same as due date for filing of return of income, i.e. 31/10/2019, and not one month prior to the date for filing of return. That the amendment requiring an assessee to file the Audit Report in the prescribed form on or before one month from the due date for filing of return of income was inserted vide Finance Act, 2020 w.e.f. 01/04/2020 applicable for AY 2020-21. Therefore, the aforesaid requirement of filing of Audit Report one month prior to the date of filing of return was not applicable for the assessment year under consideration, i.e. AY 2019-20.

The assessee, admittedly, had filed the Form 10B along with return of income, which was filed within the due date for filing the return of income. Hence, the action of the CIT(A) in rejecting the claim of the assessee cannot be held to be justified.

7.1. In view of above discussion, the impugned order of the CIT(A) is set aside and the disallowance made by the lower authorities is ordered to be deleted and the Assessing Officer is directed to allow exemption/deduction to the assessee as admissible u/s.11 of the Act in accordance with law.

8. In the result, appeal of the assessee stands allowed.

Order pronounced in the Open Court on 18/08/2025.

Sd/-
(Narendra Prasad Sinha)
Accountant Member

Sd/-
(Sanjay Garg)
Judicial Member

अहमदाबाद/Ahmedabad, दिनांक/Dated 18/08/2025

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A) - concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद/DR, ITAT, Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad