

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

**BEFORE : SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

ITA No.06/Agr/2025
Assessment Year: 2017-18

Om Charitable Chikitsa Samiti, Guda Gudi Ka Naka, Lashkar, Gwalior (MP).	Vs.	Assessing Officer, Exemption Circle, Bhopal.
PAN : AAATO1825F		
(Appellant)		(Respondent)

Assessee by	None
Department by	Sh. Anil Kumar, Sr. DR

Date of hearing	15.07.2025
Date of pronouncement	

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:

This appeal has been preferred by assessee against the impugned order dated 18.11.2024 passed in Appeal No. CIT (A), Bhopal-2/10333/2019-20 by the Ld. Commissioner of Income-tax (A), NFAC, Delhi u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year 2017-18, wherein the Id. CIT(Appeals) has confirmed the assessment order dated 10.12.2019, wherein it has been held that the assessee is neither entitled to claim deduction u/s. 10(23)C(iiiad) nor u/s. 11 of the Act.

2. Brief facts, state that appellant/assessee-trust, is an educational institution registered u/s. 12AA by the Id. CIT, Gwalior, vide, registration No. 12AA/77/54/09-10/1153 dated 14.07.2010 and u/s. 10(23C)(vi) vide order dated 21.06.2013 passed by Ld. CCIT, Bhopal. The assessee claimed exemption u/s. 10(23C)(iiiad) of the Act in the return of income filed electronically on 06.11.2017. The case was selected for scrutiny through CASS. Statutory notices u/s. 143(2) and 142(1) of the Act were issued to the assessee, who responded to the notices and submitted its replies before the Assessing Officer. Learned Assessing Officer, after perusal of assessee's response, observed that the assessee has shown gross receipts of Rs.5,64,00,245/- and claimed the same as exempt u/s. 10(23C)(iiiad) of the Act. Learned Assessing Officer, after referring Rule 2BC of the Income-tax Rules, 1962, observed that the assessee is neither entitled to claim exemption u/s. 10(23C)(iiiad), as it can be given only upto the annual receipts of Rs.1 crore in view of Rule 2BC nor u/s. 11 of the Act, despite being registered u/s. 12AA and u/s. 10(23C)(vi) of the Act, and further due to non-submission of form 10B along with the return, which was required to be filed online in accordance with section 12A(b) of the Act. Learned Assessing Officer also made a running reference in the assessment order that Form-10B dated 15.09.2017 signed by a Chartered Accountant was

submitted in the physical form but did not accept the same due to not having been submitted along with the return filed electronically.

3. Aggrieved, the assessee preferred an appeal before the Id. CIT(Appeals) who approved the assessment order and dismissed assessee's first appeal.

4. The assessee has filed this appeal on the following grounds :

“1. On the facts and circumstance of the case the learned CIT(A) erred (erred) in Confirming the order of assessing officer, assessing the taxable income of Rs. 88,03,004/- on the Society income in Except Under Section 12AA & Section 10(23)(C) of the Act, is illegal unjustified and bad in Law.

2. On the Facts of the case The learned CIT(A) erred in not considering the audit report on Form 10B Submitted during the assessment proceedings in compliance with the provision of Income Tax Act 1961 is illegal Unjustified and bad in Law.

3. On the facts of the case Learned CIT(A) erred in not accepting the fact that the audited accounts and audit report was available in prescribed time how ever could not be submitted along with the return is a bone fide Mistake and can be cured that has not been considered is illegal unjustified and bad in Law.”

5. None responded on behalf of the assessee. Perused the records and heard the Id. Departmental Representative.

6. On the basis of aforesaid grounds, raised in this appeal, the main point to be determined under appeal is as to whether learned CIT(Appeals) has erred in confirming the assessment order, whereby the physically submitted audit report on Form 10B was not considered and the rectification request of assessee to substitute section 10(23C)(vi) as against wrong

mention of section 10(23C)(iiiad) in the return for the claim of said deduction was declined despite the undisputed fact that the assessee was duly registered u/s. 12AA and u/s. 10(23C)(vi) of the Act as well ?

7. The only party in attendance/the respondent through learned DR has submitted that the assessee did not file Form 10B online along with the return in compliance of section 12A(b) of the Act and further that the assessee is also not entitled for the said claim, as the gross receipts exceeded the limit of Rs.1 crore as prescribed under rule 2BC of the Income-tax Rules. Learned DR has supported the impugned order and the assessment order.

8. We proceed to decide the issue on merit on the basis of the material available on record. The appellant assessee has mentioned in the 'fact of case' available on record that due to a clerical omission, deduction was claimed u/s. 10(23C)(iiiad) instead of correct section 10(23C)(vi) of the Act. Revenue has not disputed the fact that the assessee society is registered u/s. 12AA of the Act, vide, registration No. 12AA/77/54/09-10/1153 dated 14.07.2010, granted by CIT, Gwalior, and u/s. 10(23C) of the Act vide order dated 21.06.2013, passed by CCIT, Bhopal. Such clerical mistake should have in such a situation been rectified by revenue authorities instead of rejecting the assessee's request for rectification of the same. After the

correction of such mistake, the question of applicability of Rule 2BC as regards the annual receipts exceeding one crore, would also not arise.

9. This apart, it is further mentioned by the assessee in the “fact of case” that the required Form No. 10B could not be submitted in electronic mode despite best efforts but in physical form by assessee’s Chartered Accountant and the same was accepted by the Assessing Officer. This fact is substantiated by the assessment order dated 10.12.2019, wherein learned Assessing Officer has mentioned that the Form 10B duly signed by the Chartered Accountant was submitted during the course of assessment on 15.09.2017. The matter relates to the assessment year 2017-18. Though, the return of income is said to be filed on 06.11.2017, however, Form 10B was already submitted in the physical form in the department on 15.09.2017 by the assessee. Ld. Assessing Officer has not raised any concern in respect of required details existing in Form 10B, filed physically on 15.09.2017.

10. It will be relevant to note that the law is nothing but an uncommon common sense. Any rule of procedure is only a tool for justice and if necessary, can be moulded to decide the real controversy. Procedural laws provide for natural way of doing things and do not bar even for adoption of additional procedure, as and when the situation may demand. There has to be a human approach in following the procedure prescribed so that it serves

the ends of justice and it should not be applied in such a manner to kill the right/duty of any party. The sole object of procedural law is to promote justice. Therefore, we are of the view that the Assessing Officer should not have denied the rightful claim of the assessee merely on the basis that form 10B was filed in the physical form but not along with the return in electronic form, more so, when the same was filed before the prescribed date of filing of return. Ld. CIT(A) has miserably failed to take notice of aforesaid hyper-technical approach adopted by the Ld. Assessing Officer. The impugned order, thus, does not stand the test of truth. The aforesaid issue is accordingly determined in favour of the assessee and against the revenue.

11. In the result, appeal is allowed for statistical purposes. Impugned orders dated 18.11.2024 and the assessment order dated 10.12.2019 are set aside. The matter is restored back to the file of the assessing officer with the direction to decide the matter afresh in accordance with law, keeping the aforesaid observations in view. Needless to say that the Assessing Officer shall ensure the substantial compliance of the principles of natural justice.

Order pronounced in the open court on 27.08.2025.

**Sd/-
(BRAJESH KUMAR SINGH)
ACCOUNTANT MEMBER**

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 27.08.2025

*aks/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra