

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

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI PRAKASH CHAND YADAV, JM**

**ITA Nos. 241 & 242/Coch/2025
Assessment Years: 2015-16 & 2016-17**

The Income Tax Officer Appellant
Aayakar Bhavan, Old. Rly. Stn., Kochi 682018

vs.

Kerala Province of the Congregation Respondent
of the Carmelite Sisters of St. Teresa
St. Therasas Provincial House, BMC P.O.
Chembumukku, Thrikkara 682021
[PAN: AAATK3501G]

Appellant by: Smt. Leena Lal, Sr. D.R.
Respondent by: ----- None -----

Date of Hearing: 20.05.2025
Date of Pronouncement: 27.06.2025

ORDER

Per: Inturi Rama Rao, AM

These appeals filed by the Revenue are directed against the different orders of the National Faceless Appeal Centre, Delhi [CIT(A)], dated 03.02.2025 for Assessment Years (AY) 2015-16 & 2016-17.

2. Since identical issues and facts are involved in these appeals, they are heard together and disposed of by this common order.

3. For the sake of convenience and clarity the facts relevant to the appeal bearing ITA No. 241/Coch/2025 for AY 2015-16 are stated herein

4. Brief facts of the case are that the appellant is a charitable trust duly registered u/s. 12A of the Income Tax Act, 1961 (the Act). No regular return of income u/s. 139(1) of the Act was filed for the assessment year under consideration. The AO, on receipt of information that the appellant trust made cash deposit of Rs. 2,70,90,335/- and interest of Rs. 8,78,586/- was earned and made term deposit of Rs. 30,00,000/- with banking companies, formed an opinion that income escaped assessment to tax. Accordingly, notice u/s. 148 of the Act was issued to the appellant. In response to the notice the appellant filed return of income disclosing Nil income after claiming exemption u/s. 11 of the Act. Against the said return of income, the assessment was completed by the Income Tax Officer, Ernakulam (hereinafter called "the AO") vide order dated 01.03.2024 passed u/s. 147 r.w.s 144B of the Act at a total income of Rs. 2,13,98,026/-. While doing so, the AO denied the claim for exemption u/s. 11 of the Act solely on the ground that the return of income was not filed within the due date prescribed u/s. 139(1) of the Act. Accordingly, income applied towards charitable purposes was not treated as eligible for deduction and brought to tax a sum of Rs. 2,13,98,026/-.

5. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order allowed the appeal by holding that filing the return of income within the due date prescribed u/s. 139(1) is not a condition precedent for claiming exemption u/s. 11 of the Act for the assessment years prior to 2018-19. Provisions of section 12A(ba) was inserted by Finance Act, 2017 have prospective application from AY 2018-19 onwards. Accordingly, allowed the claim for deduction u/s. 11 of the Act.

6. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

7. When the appeal was called on nobody appeared on behalf of the assessee despite due service of notice of hearing. Therefore, we proceed to dispose of the appeal after hearing the learned Sr. DR.

8. The learned Sr. DR submits that provisions of section 12A(ba) inserted by Finance Act, 2017 have retrospective effect. Non filing of return of income within the due date specified u/s. 139(1) is fatal for denial of exemption u/s. 11 of the Act.

9. The issue that arise for our consideration is whether the CIT(A) was justified in allowing exemption u/s. 11 of the Act by holding that provisions of section 12A(ba) have prospective application from AY 2018-19. On a mere perusal of the assessment order, it would reveal that the AO had denied exemption u/s. 11 solely on the ground that the appellant trust had failed to file return

of income within the due date mentioned in section 139(1) of the Act. Provisions of section 12A(ba) were inserted by Finance Act, 2017 w.e.f. 01.04.2018 to provide that the person in receipt of income u/s. 11 should furnish return of income for the assessment year under consideration in accordance with the provisions of sub-section 4(a) of section 139 within the time allowed u/s. 139 otherwise exemption u/s. 11 cannot be allowed. These provisions were specifically made applicable from AY 2018-19 and subsequent years. This was clarified by the Board Circular. Therefore, for the period prior to AY 2018-19 provisions of section 12A(ba) have no application. In the circumstances, we do not find any illegality or perversity in the findings of the CIT(A).

10. Since identical issues are involved in all other appeals, ITA No. 242/Coch/2025, the above findings are mutatis mutandis apply to this appeals also.

11. In the result, the appeals filed by Revenue stand dismissed.

Order pronounced in the open court on 27th June, 2025.

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 27th June, 2025

n.p.

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

ITA Nos. 241 & 242/Coch/2025
Kerala Province of the Congregation
of the Carmelite Sisters of St. Teresa

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	19.05.2025		Sr. PS/PS
2	Draft placed before author	22.05.2025		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement			Sr. PS/PS
7	File sent to Bench Clerk			Sr. PS/PS
8	Date on which the file goes to Head Clerk			
9	Date on which file goes to A.R.			
10	Date of Dispatch of order			