

आयकर अपीलिय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

श्री रविश सूद, न्यायिक सदस्य एवं
श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.792/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2023-24)

Sri Sarada Peetham Charitable Trust, Visakhapatnam. PAN:AAGTS3745N	Vs.	Income Tax Officer Exemption, Ward-1(4), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri GVN Hari, Advocate	
राजस्व द्वारा / Revenue by:	Shri Gurpreet Singh, SR-DR	
सुनवाई की तारीख / Date of hearing:	02/09/2025	
घोषणा की तारीख / Pronouncement:	10/09/2025	

आदेश/ORDER

PER MADHUSUDAN SAWDIA, A.M.:

This appeal is filed by Sri Sarada Peetham Charitable Trust ("the assessee"), feeling aggrieved by the order passed by the Learned ADDL/JCIT(A)-1, Bengaluru, ("Ld. First Appellate Authority"), dated 29.03.2025 for the A.Y. 2023-24.

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

Sl No.	Grounds of Appeal
1.	The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.
2.	The learned Commissioner of Income Tax (Appeals) is not justified in sustaining the adjustment of Rs.50,00,000 made by the CPC towards disallowance of exemption claimed u/s 11(2) of the Act.
3.	The learned Commissioner of Income Tax (Appeals) ought to have appreciated that Form No.10BB was originally filed on 07.09.2023 i.e. within the due date and the Revised Form No.10BB filed on 08.12.2023 was only for rectification of certain technical errors in the form originally filed.
4.	Any other ground that may be urged at the time of appeal hearing.

3. The brief facts of the case are that, the assessee is a charitable trust, filed its return of income on 07.09.2023 declaring total income of Rs. Nil, claiming exemption of Rs.1,73,30,178/- under section 11 of the Income Tax Act, 1961 (“the Act”). Along with the return of income, the assessee also filed the audit report in Form No.10BB as well as Form No.10 on the same date i.e., 07.09.2023. The assessee had in fact filed Form No.10 under section 11(2) of the Act. While processing the return under section 143(1) of the Act, CPC noticed a mismatch between Form No.10BB and Form No.10 and proposed an addition of Rs.50 lakhs. The said intimation was received by the assessee on 08.12.2023, and immediately on the same date, the assessee filed a revised audit report in Form No.10BB which was now

in line with Form No.10. However, CPC did not consider the revised report filed on 08.12.2023 within the due date and added Rs.50 lakhs in the hands of the assessee by passing an order under section 143(1) on 05.09.2024.

4. Aggrieved by the order of CPC, the assessee filed appeal before the Ld. First Appellate Authority. The Ld. First Appellate Authority, however, upheld the CPC's action and dismissed the appeal.

5. Aggrieved with the order of Ld. First Appellate Authority, the assessee is now in appeal before this Tribunal. The Ld. Authorised Representative (Ld. AR) submitted that the assessee had filed its original return of income on 07.09.2023 along with the audit report in Form No.10BB and Form No.10 within the prescribed due date. The mismatch between Form No.10BB and Form No.10 was only a technical error noticed by CPC on 08.12.2023. Immediately on the same date, the assessee filed a revised audit report in Form No.10BB which was fully in conformity with Form No.10, and this was done before the CPC passed the intimation under section 143(1) on 05.09.2024. The Ld. AR argued that once the revised audit report was

filed before completion of processing under section 143(1), the CPC ought to have considered the same. He relied on the decision of this Tribunal in the case of Sri Ramalingeswara Swamy Temple vs. ITO (Exemptions), ITA No.579/Hyd/2025, AY 2023–24, order dated 25.06.2025, where the Tribunal allowed exemption even though the audit report was filed beyond the due date but before completion of processing under section 143(1). In the present case, the assessee's case stands on a stronger footing because the original audit report was filed in time and the revised one was only to rectify mismatch. Therefore, the Ld. AR argued that the disallowance of Rs.50 lakhs sustained by the Ld. CIT(A) is liable to be deleted.

6. Per contra, the Ld. Departmental Representative (Ld. DR), strongly relied on the order of the Ld. CIT(A). He submitted that the Ld. CIT(A) had rightly upheld the CPC's order and the same does not call for interference.

7. We have carefully considered the rival submissions and perused the material available on record. It is not in dispute that both the Forms i.e. Form no.10BB and Form no.10 were filed within the

prescribed due date. The mismatch between Form no.10BB and Form no.10 was noticed subsequently by CPC on 08.12.2023. The assessee on the same day filed a revised audit report in Form No.10BB, which aligned with Form No.10, before CPC passed the order under section 143(1) on 05.09.2024. We have gone through the decision of this Tribunal in the case of Sri Ramalingeswara Swamy Temple vs. ITO (Exemptions) (supra), wherein at para no.7 of its order, the Tribunal has held as under :

7. We have heard the rival contentions, perused the relevant material available on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that, the appellant is a religious institution under the management and administrative control of Endowment Department of the Govt. of Telangana. It is also not in dispute that, the appellant is registered u/s 12A and 12AA of the I.T. Act, 1961. The appellant has claimed exemption u/s 11 of the Act and filed relevant audit report in Form 10BB on 28/11/2023 along with the return of income filed for the impugned A.Y. There is no dispute that, the audit report in Form 10BB is filed beyond the due date provided under the Act. The due date for filing the audit report for the year under consideration was 31/10/2023. whereas the appellant has filed the audit report on 28/11/2023. Admittedly, there is a delay of 28 days in filing Form 10BB. But, the said audit report was filed before the Assessing Officer passed the assessment order u/s 143(1) of the Act on 19/11/2024. No doubt, the assessee needs to file audit report on or before the due date in order to get the benefit of exemption u/s 11 of the Act. However, in a case where the assessee has filed the audit report with a small delay of 28 days and further when such audit report was filed before the Assessing Officer who passed the assessment order, in our considered view, the Assessing Officer ought to have taken a lenient view going by the facts of the case to

consider the claim of the assessee for exemption u/s 11 of the I.T. Act, 1961. This legal position is supported by the decision of the ITAT Bangalore Bench in the case of Sardeivatha Education Trust vs Income Tax Officer (Exemptions) (Supra), wherein it was held that filing of Form 10BB was not mandatory but directory and that when audit report was available while passing intimation u/s 143(1) of the Act and requirement of law were complied with, exemption u/s 11 should not be denied to the assessee. The Hon'ble High Court of Telangana in the case of Shilparamam Arts, Crafts and Cultural Society vs, Addl./Jt./ACIT (Supra) had considered an identical issue and held that, where the assessee trust filed its return of income for the relevant A.Y on due date but, uploaded Form 10BB belatedly i.e. 2 ½ years before the assessment order was passed, application for condonation of delay in filing Form 10BB ought to have been decided by the Commissioner by taking a liberal approach. The sum and substance of ratio laid down by the Hon'ble High Court of Telangana and the ITAT Bangalore Bench of the Tribunal that, if audit report in Form 10BB was made available to the Assessing Officer before he passes his assessment order, then merely for the reason of delay in filing the relevant report, exemption claimed u/s 11 of the Act cannot be denied. In the present case, admittedly, the assessee has filed return of income on or before the due date on 28/11/2023 and also filed audit report in Form 10BB on the very same day i.e. on 28/11/2023. Although, there is a small delay of 28 days in filing the audit report but, such audit report was made available to the Assessing Officer when he passed order u/s 143(1) on 19/11/2024. Therefore, in our considered view, the Assessing Officer ought not to have denied exemption u/s 11 of the Act. The learned CIT (A) without considering the relevant facts has simply upheld the additions made by the Assessing Officer by rejecting exemption u/s 11 of the Act. Thus, we set aside the order passed by the learned CIT (A) and direct the Assessing Officer to allow exemption claimed u/s 11 of the I.T. Act, 1961 and delete the additions.”

8. On perusal of above, we find that under similar circumstances, though the audit report was filed beyond the due date but before processing under section 143(1), the Tribunal held that such filing is

sufficient compliance and the benefit of exemption under section 11 could not be denied. In the present case, the position of the assessee is even stronger, as the original audit report was filed within the due date, and only a revised audit report was filed subsequently to remove the mismatch. Therefore, respectfully following the decision of the Tribunal in Shri Ramalingeswara Swamy Temple (supra), we are of the considered view that the disallowance made by CPC and sustained by the Ld. CIT(A) is not in accordance with law. Accordingly, we direct for the deletion of Rs.50 lakhs made by the CPC.

9. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 10th Sept., 2025.

**Sd/-
(RAVISH SOOD)
JUDICIAL MEMBER**

**Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER**

Hyderabad.

Dated: 10.09.2025.

*** Reddy gp**

Copy of the Order forwarded to :

1.	Sri Sarada Peetham Charitable Trust, C/o Sri Sarada Peetham, D.No.11-2, Chinnamushidiwada, Pendurthi, Visakhapatnam – 531 173
2.	The ITO Exemption, Ward 1(4), Hyderabad.
3.	Pr.CIT (Exemption), Hyderabad.
4.	DR, ITAT, Hyderabad.
5.	Guard file.

BY ORDER,