



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।  
**IN THE INCOMETAXAPPELLATE TRIBUNAL,  
RAJKOT BENCH: RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER And  
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

आयकर अपील सं./ITA No. 177/RJT/2025  
(निर्धारण वर्ष/Assessment Year: (2022-23))

Shri Ekta Education Trust Professional Academy Primary School, Gokuldharm Mangrole Road, Keshod-362 220	बनाम /Vs.	Income Tax Officer (Exemption), Ward-2, Rajkot, New Aayakar Bhawan, Race Course Ring Road, Rajkot-360 001
स्थायी लेखा सं./जीआइआरसं./PAN/GIR No.: <b>AAFTS 1570 G</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

निर्धारिती की ओर से/Appellant by : Shri D.M.Rindani, A.R. &  
Ms. Devina Patel, AR  
राजस्व की ओर से/Respondent by : Shri Abhimanyu Singh Yadav, Sr. D.R.

सुनवाई की तारीख/ **Date of Hearing** : 13/08/2025

घोषणा की तारीख/**Date of Pronouncement** : 29/08/2025

**आदेश / ORDER**

**Per, Dr. Arjun Lal Saini, Accountant Member:**

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2022-23, is directed against the order under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) passed by the Learned Commissioner of Income Tax(Appeal)/Addl/JCIT(A)-1, (in short “Ld.CIT(A)”, dated 12.02.2025, which in turn arises out of an order passed by the Centralized Processing Centre/Assessing Officer u/s 143(1) of the Act.

2. The grounds of appeal raised by the assessee are as follows:

*“1. The learned ADDI/JCIT(A)-1, Visakhapatnam, erred in confirming the action of the CPC, Bangalore by failing to appreciate that the action of CPC, Bangalore in making adjustments to the returned income of the appellant by way of intimation u/s 143(1) of the Act and in denying the benefit of Sec.11 of the appellant was not a case of permissible prima facie adjustment.*



2. *The learned ADDL/JCIT(A)-1, Visakhapatnam, erred in confirming the action of the CPC, Bangalore in not giving deduction of Rs.17,17,964/- claimed by the appellant by way of amount applied during the previous year on revenue account.*

3. *The learned ADDL/JCIT(A)-1, Visakhapatnam, erred in confirming the action of CPC, Bangalore, in not giving the deduction of Rs.30,425/- claimed by the appellant by way of amount applied during the previous year on capital account.*

4. *The learned ADDL/JCIT(A)-1, Visakhapatnam, erred in confirming the action of the CPC, Bangalore, in not giving the deduction of Rs.74,682/- claimed by the appellant/s 11(1)(a) of the Act.*

5. *The learned ADDL/JCIT(A)-1, Visakhapatnam, erred in not considering audit report in Form 10B filed by the appellant before filing of first appeal.*

6. *The learned ADDL/JCIT(A)-1, Visakhapatnam, erred in confirming the action of the CPC, Bangalore, by failing to appreciate that only net income is taxable under the Act and not the entire gross income of the appellant.*

7. *The appellant craves leave to add, amend, alter and withdraw any ground of appeal anytime up to the hearing of this appeal.”*

3. At the outset, on merit, Ld. Counsel for the assessee, (Ms. Devina Patel,) has invited the attention of the Bench, towards the order of learned CIT(A), stating that Ld.CIT(A) has dismissed the appeal of assessee solely on the ground that assessee has not filed audit report in Form-10B, electronically, one month prior to the due date for furnishing return of income u/s 139(1) of the Act. The due date for filing of return of income for the year under consideration is, on 07.11.2022, therefore the assessee supposed to file Form-10B electronically on or before 07.10.2022. However, the assessee had filed Form-10B, on 07.11.2022, therefore the CPC (Assessing Officer) has denied the benefit u/s 11/12 of the Act to the assessee. For that, Ld. Counsel for the assessee invited the attention of the Bench that issue under consideration is squarely covered by the co-ordinate Bench of this Tribunal in the case of Suryoday Kelavani & Sanskruti Mandal vs. ADIT in ITA No.334/RJT/2023 for A.Y 2016-17 dated 29.11.2024, wherein the Co-ordinate Bench of this Tribunal has



condoned the delay in filing Form no. 10B and matter was restored back to the file of the assessing officer. The findings of the Tribunal are as follows:

*“8. We note that assessee has filed Form No.10B (Audit Report) during the appellate proceedings and therefore we find that this Form No.10B was not available before the assessing officer for his examination. In order to claim exemption u/s 11 of the Act, the assessee may file audit report in Form No.10B, even at a later stage either before assessing officer, or before appellate authority, by showing a sufficient cause. Our above view is fortified by the judgement of Hon'ble jurisdictional High Court of Gujarat in the case of **CIT vs. Xavier Kelavani Mandal (P.) Ltd., (2014) 41 taxmann.com 184 (Gujarat)**, where in it was held as follows:*

*“4. The question whether it is permissible to the assessee to produce the audit report at the appellate stage, has already been answered by this court in **CIT v. Gujarat Oil & Allied Industries Ltd. [1993] 201 ITR 325 (Guj.)**, wherein it is held that the provision regarding furnishing of audit report along with the return has to be treated as a procedural provision. It is directory in nature and its substantial compliance would suffice. In that case, the assessee had not produced the audit report along with the return of income, but produced before completion of the assessment. The Punjab and Haryana High Court in **CIT v. Shahzadanand Charity Trust [1997] 228 ITR 292/[1998] 96 Taxman 494** has reiterated the same principle holding that the benefit of exemption should not be denied merely on account of delay in furnishing the same, and it is permissible for the assessee to produce the audit report at a later stage either before the Income Tax Officer or before the appellate authority by showing a sufficient cause. This decision of Punjab & Haryana High Court has been relied on by the Tribunal.”*

*9. We note that Co-ordinate Bench of ITAT, Ahmedabad in the case of **Shree Charitable Trust vs. ITO, (2004) 158 taxmann.com 159**, held that where assessee-trust filed Audit Report in Form 10B belatedly and assessing officer denied exemption u/s 11 of the Act, on ground that Form 10B was not filed along with return of income, since Audit Report was not considered and verified by assessing officer, and the impugned order was to be set aside and AO was to be directed to verify Form 10B and then allow claim of exemption u/s 11 in accordance with law. Therefore, in the assessee's case under consideration, before us, Audit Report in Form 10B, though filed belatedly by the assessee, the same was not considered and verified by the Assessing Officer u/s. 143(1) of the Act. We also find that there is no regular assessment order passed u/s. 143(3) of the Act in the assessee's case, therefore we hereby direct the Jurisdictional Assessing Officer to verify the Form No. 10B and then allow the claim of exemption u/s. 11 of the Act in accordance with law.”*



4. Therefore, Ld.Counsel for the assessee submitted that issue may be remitted back to the file of Assessing Officer with the direction to the jurisdictional Assessing Officer to verify Form-10B and then allow the claim of exemption u/s 11/12 of the Act, in accordance with law.

5. On the other hand, ld. Senior DR of the Revenue did not raise any objection, if the matter is remitted back to the file of jurisdictional Assessing Officer to verify Form-10B and then allow the claim of exemption u/s 11/12, as per provisions of the Act.

6. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the ld CIT(A) and other materials brought on record. We have also deliberated the case law relied upon by Ld. Counsel for the assessee. We note that assessee has filed Form-10B one month late before Assessing Officer (CPC), however, the Form-10B was in the file of Assessing Officer, despite of this, Assessing Officer (CPC) has not examined the issue under consideration and the CPC (Assessing Officer) has denied the benefit u/s 11/12 of the Act. We further note that to claim exemption u/s 11/12 of the Act, the assessee may file Audit Report in Form-10B, even at later stage either before Assessing Officer or before Ld.CIT(A) by showing sufficient cause. Therefore, considering the facts and circumstances of the case, we direct the jurisdictional Assessing Officer to accept the Form-10B and after verification of Form-10B, the benefit u/s 11/12 of the Act may be allowed as per the provision of the Act. With these directions, the grounds of appeal raised by the assessee are allowed for statistical purposes.

7. In the result, appeal of the assessee is allowed for statistical purposes.



**Order is pronounced on 29/08/2025 in the Open Court.**

Sd/-  
**(DINESH MOHAN SINHA)**  
न्यायिक सदस्य/**Judicial Member**  
राजकोट /Rajkot

Sd/-  
**(DR. ARJUN LAL SAINI)**  
लेखा सदस्य/**Accountant Member**

दिनांक/ Date: 29/08/2025

*DKP Outsourcing Sr.P.S*

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आदेश की प्रतिलिपि अत्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order/आदेश से,

सहायक पंजीकार  
आयकर अपीलीय अधिकरण, राजकोट