

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
DELHI BENCH 'G' NEW DELHI  
BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**I.T.A. No. 2112/Del/2025 (A.Y 2021-22)**

Dy. Commissioner of Income Tax E-2, ARA Centre, Jhandewalan, Delhi <b>PAN: AAATM5225F</b>	Vs	Maharaji Educational Trust, H-1, Sector 12, Santosh Nagar, Pratap Vihar, Uttar Pradesh
<b>Appellant</b>		<b>Respondent</b>
Assessee by	CA Suresh K. Gupta	
Revenue by	Sh. Mahesh Kumar, CIT (DR)	
Date of Hearing	11/09/2025	
Date of Pronouncement	19/09/2025	

**ORDER**

**PER YOGESH KUMAR, U.S. JM:**

The present appeal is filed by the Assessee against the order of Ld. Commissioner of Income Tax (Appeals)-24, ('Ld. CIT(A)' for short), New Delhi dated 20/01/2025 pertaining to Assessment Years 2021-22.

2. Brief facts of the case are that, the Assessee filed Form 10BB on 28/03/2022, whereas the extended due date as per the CBDT Circular No. 1/2022 dated 11/01/2020 was 15/02/2022. An intimation u/s 143(1) of the Act has been issued by the CPC by making adjustment by denying the claim of application of income of Rs. 10,27,06,176/- on the ground of delay in filing Audit Report and return of income with prescribed time limit. Aggrieved by the intimation dated 20/06/2022, passed by ADIT, CPC, Bangalore u/s

143(1) of the Act, the Assessee preferred an Appeal before the Ld. CIT(A). It was the case of the Assessee that, the delay caused in filing the said Form due to Covid-19 situations and limitation for filing the Form No. 10BB is not mandatory and the same is advisory. The Ld. CIT(A) vide order dated 20/01/2025, allowed the Appeal of the Assessee. As against the order of the Ld. CIT(A), the Revenue preferred the present Appeal.

3. The Ld. Departmental Representative vehemently submitted that the Ld. CIT(A) committed error in deleting disallowance of Rs. 10,27,06,176/- made by the A.O. u/s 143(1) of the Act on account of non-compliance with 10<sup>th</sup> Proviso of Section 10(23C) of the Act and corresponding provision of Section 14A of the Act. Thus, the Ld. Departmental Representative sought for allowing the Appeal.

4. Per contra, the Ld. Assessee's Representative submitted that due to Covid-19 situations, the Assessee could not file Form No. 10BB on time, however, the same has been filed on 28/03/2022. The Ld. Counsel further submitted that time limit for filing the Form No. 10BB is not mandatory it is only advisory. The Ld. Assessee's Representative relying on the order of the Ld. CIT(A) sought for dismissal of the Appeal of the Revenue.

5. We have heard both the parties and perused the material available on record. As per the Circular No. 1/2022, the due date to file Form 10BB was 15/02/2022, however, the Assessee filed Form No. 10BB on 28/03/2022. It is true that at that point of time, the Covid-situations were in exist. As per the Assessee due to Covid-19 situations, the Assessee could not file the Form 10BB on time. The Ld. CIT(A) while allowing the Appeal relied on plethora of Judgment and found that the Assessee trust being a registered u/s 12AA of the Act and filed original his return on time and also Form 10BB on the date of filing of return of income, therefore, observed that the Assessee has complied with the requirements of furnishing of Form 10BB.

6. The Hon'ble Supreme Court in the case of Principal Commissioner of Income Tax-III Bangalore and AnrsVs. M/s Wipro Limited held as under:-

*“14. In view of the above discussion and for the reasons stated above, we are of the opinion that the High Court has committed a grave error in observing and holding that the requirement of furnishing a declaration under Section 10B (8) of the IT Act is mandatory, but the time limit within which the declaration is to be filed is not mandatory but is directory. The same is erroneous and contrary to the unambiguous language contained in Section 10B (8) of the IT Act. We hold that for claiming the benefit under Section 10B (8) of the IT Act, the twin conditions of furnishing a declaration before the assessing officer and that too before the due date of filing the original return of income under section 139(1) are to be satisfied and both are mandatorily to be complied with. Accordingly, the question of law is answered in favour of the Revenue and against the assessee. The orders passed by the High Court as well as ITAT taking a contrary view are hereby set aside and it is held that the assessee shall not be entitled to the benefit under Section 10B*

*(8) of the IT Act on non-compliance of the twin conditions as provided under Section 10B (8) of the IT Act, as observed hereinabove. The present Appeal is accordingly Allowed. However, in the facts and circumstances of the case, there shall be no order as to costs.”*

7. In view of the settled principals of law that the limitation for filing of Form 10BB is only an advisory not mandatory and in the absence of contrary material brought on record by the Department against the findings of the Ld. CIT(A), we find no reason to interfere with the conclusion of the Ld. CIT(A) in allowing the First Appeal filed by the Assessee. Accordingly, we dismiss the Grounds of Appeal of the Revenue.

8. In the result, Appeal filed by the Revenue is dismissed.

**Order pronounced in the open court on 19<sup>th</sup> September, 2025**  
**Sd/-** **Sd/-**

**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Date:- 19.09.2025  
R.N, Sr.P.S\*

**Copy forwarded to:**

1. **Appellant**
2. **Respondent**
3. **CIT**
4. **CIT(Appeals)**
5. **DR: ITAT**

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**

