

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

**SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER &  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA Nos.545 & 548/COCH/2025  
(Assessment Year:2011-2012 & 2007-2008)**

**AND**

**Stay Application Nos. 75 & 76/Coch/2025**

**Shalom Charitable Ministries of India,**  
Shalom Nagar, Gopalapuram Road,  
Chittur, Palakkad, Kerala-678553  
[PAN:AADTS 6647 Q]

..... **Appellant**

Vs

**Income Tax Officer(Exemption),**  
Thrissur, Aayakar Bhavan,  
S.T. Nagar, Thrissur-680001

..... **Respondent**

**Appearance**

For the Appellant/Assessee : None  
For the Respondent/Department : Smt. Leena Lal, Sr. DR

**Date**

Conclusion of hearing : 20.08.2025  
Pronouncement of order : 10.09.2025

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. These are the two appeals preferred by the same Assessee directed against two separate orders, each dated 29/05/2025, passed by the National Faceless Appeal Centre, Delhi [hereinafter referred to as 'NFAC'] under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'] whereby the NFAC had dismissed the appeals against the Penalty Orders, dated 18/02/2022 and 08/06/2017, passed under Section 271(1)(c) of the Act for the Assessment Years 2011-2012 & 2007-08, respectively. The Assessee has also filed stay applications seeking stay on recovery of penalty.

**ITA Nos.548/COCH/2025 & SA No.76/Coch/2025**

(AY:2007-2008)

2. We would first take up appeal pertaining to A.Y. 2007-08 which has been preferred by the Assessee challenging the Order passed by the NFAC, dated 29/05/2025.
3. When this appeal was taken up for hearing, none was present on behalf of the Assessee. After taking into consideration the contentions raised by the Assessee in the grounds of appeal, we proceeded to hear the Learned Departmental Representative to adjudicate the appeal on merits.
4. The relevant facts in brief are that the Assessee is a charitable trust. Vide Order, dated 08/06/2017, penalty of INR.18,74,916/- was levied upon the Assessee under Section 271(1)(c) of the Act in respect of Assessment Year 2007-08. Being aggrieved, the Assessee preferred appeal before the NFAC which was disposed of vide Order, dated 29/05/2025. Now the Assessee has preferred the present appeal before this Tribunal. On perusal of Ground No.5 raised by the Assessee in the present appeal, we find that the Assessee has contended that the appeal preferred by the Assessee was dismissed by NFAC without granting a reasonable opportunity of being heard and in clear violation of the provisions contained in NFAC Scheme, 2021. We find that before the NFAC, the Assessee had raised the following grounds of appeal:
  - "1) *The order of the learned Assistant commissioner of Income Tax, Circle-1, Palakkad in so far as prejudicial to the appellant opposed to law, facts and circumstances of the case.*
  - 2) *The Penalty is totally illegal, unwarranted and unsustainable since there is no deliberate attempt on the part of the appellant. Being a trust existing for uplift of the poor there cannot be any imputation of attempt to evade tax. The assessment was done purely based on a legal view which can have more views than one. The view taken by the appellant that it is eligible for*

*exemption has been upheld by the tribunal and the ITO relied on another decision of the Tribunal which is in favour of the department. The conflicting views of the tribunal itself vouches for the fact that there exists difference of opinion in the matter. In view of this position and in the facts and circumstances of the case there is no warrant for the penalty.*

- 3) *It is submitted that section 44AB is not applicable in the case of a trust, whose books of accounts must be prepared not in accordance with the usual commercial accounting principles and their income computed do not have any head as envisaged in section 14 of the Act. Audit of a charitable trust is envisaged in section 12A(1)(b) of the Act.*
  - 4) *It is submitted that micro finance activity is only a charitable activity designed in such a way that the poor sections of the society are to be benefited and to be uplifted, especially rural women who do not have substantial income.*
  - 5) *Be that as it may audit as already been done and a report submitted in Form 10B and has to be regarded as substantial compliance with the provisions of law. The object of the section 44AB is to compute proper taxable income and that purpose is achieved to a larger extent by the audit performed u/s. 12A(1)(b) of the Act.*
  - 6) *For these amongst other grounds that may be permitted to be raised and additional evidences adduced at the time of hearing or before and it is prayed that justice be done to the appellant by quashing/modifying the impugned order."*
5. However, on perusal of the impugned order impugned, we find that all the above grounds raised by the Assessee were not taken up together by the NFAC and adjudicated upon in paragraph No.7 of the order impugned. After reproduced the order passed by the first appellate authority in the quantum proceedings as well as the findings of the Tribunal in the appeal preferred by the Assessee against the order passed by the NFAC in the quantum proceedings, the NFAC has dismissed the appeal recording as under:

"7. xx xx

*As the additions made by the AO detected during scrutiny and confirmed by the Ld. CIT(A) and Hon'ble ITAT clearly indicates he has furnished inaccurate particulars of income by claiming exemption u/s 11 when it was not eligible for the same, the AO has rightly levied the penalty of Rs 18,74,916/- u/s 271(1)(c) of the Act. Accordingly, the penalty Rs. 18,74,916/- so imposed by*

*the AO, confirmed and the ground of appeal dismissed."*

*8. Hence, in this case the appeal is DISMISSED."*

6. We note that though the NFAC has reproduced the submissions made by the Assessee in Paragraph No.6 of the order impugned, the same have neither been taken into consideration nor adjudicated upon by the NFAC. Therefore, we are of the considered view that the impugned order passed by the NFAC cannot be sustained and is hereby set aside with the directions to the NFAC to adjudicate the grounds raised by the Assessee in the appeal before the NFAC afresh after granting the Assessee a reasonable opportunity of being heard as per law. The Assessee has directed to cooperate in the appellate proceedings before the NFAC and file all the relevant submissions/documents/details on which the Assessee wishes to place reliance before the NFAC on receiving notice of hearing. It is clarified that in case the Assessee fails to enter appearance before the NFAC or fails to file relevant documents/details/submission, the NFAC would be at liberty to adjudicate the grounds raised by the Assessee in appeal before NFAC on the basis of material on record. Our aforesaid decision draws strength from the judgment of the Hon'ble Bombay High Court in the case of CIT (Central) Nagpur vs. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bombay) wherein it was held that in view of the provisions contained in Section 250(6) of the Act the first appellate authority is required to deal with the issue raised by the assessee on merits while adjudicating the appeal stating the points for determination, the decision thereon and the reason for the decision. Accordingly, Ground No. 5 raised by the Assessee is allowed, while all the other grounds are dismissed as having been rendered infructuous. In terms of the aforesaid, the appeal preferred by the Assessee is treated as allowed for statistical purposes. Since the appeal has been disposed off as aforesaid, the stay application filed by the Assessee is dismissed as having been rendered infructuous at this stage.

**ITA Nos.545/COCH/2025 & SA No.75/Coch/2025**

(AY: 2011-2012)

7. We would now take up appeal pertaining to A.Y. 2011-2012 which has been preferred by the Assessee challenging the Order, dated 29/05/2025, passed by the NFAC.
8. Since the facts and circumstances prevailing in the Assessment Year 2011-2012 are identical to prevailing in Assessment Year 2007-08, our findings and adjudication in appeal pertaining in Assessment Year 2007-08 shall apply mutatis mutandis to the appeal for Assessment Year 2011-12. Accordingly, adopting the reasoning given while adjudicating A.Y. 2007-08 hereinabove, ground raised by the Assessee in the present appeal corresponding to Ground No. 5 of appeal for the Assessment Year 2007-08 is allowed, while all the other grounds are dismissed as having been rendered infructuous. In terms of the aforesaid, the appeal preferred by the Assessee is treated as allowed for statistical purposes. Since the appeal has been disposed off as aforesaid, the stay application filed by the Assessee is dismissed as having been rendered infructuous at this stage.
9. In result, the appeal preferred by the Assessee for the Assessment Year 2007-2008 and 2011-2012 are treated as allowed for statistical purposes while the connected stay applications are dismissed.

Order pronounced on 10.092025.

**Sd/-**  
**(Inturi Rama Rao)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

कोचीन Cochin; दिनांक Dated : 10.09.2025

vr/-

**आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण कोचीन / DR,  
ITAT, Cochin
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, कोचीन / ITAT, Cochin