

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER AND  
SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
(Physical Hearing)**

**I.T.A. No. 497 to 500/Asr/2024  
Assessment Year: 2017-18 to 2019-20  
Assessment Year: 2022-23**

LATE SH. BHAGAT C'HAJJU RAM MEMORIAL TRUST. House No.5, Shastri Nagar, JAMMU PAN: AAATL7093A <b>(Appellant)</b>	V s.	ITO (Exemption), JAMMU  <b>(Respondent)</b>
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<b>Appellant by</b>	Sh. Joginder Singh (CA)
<b>Respondent by</b>	Mr. Charan Dass Addl CIT (Sr. DR)

<b>Date of Hearing</b>	24.09.2025
<b>Date of Pronouncement</b>	26.09.2025

**ORDER**

**Per: DR. M.L. Meena, AM.:**

These appeals are preferred by the assessee against the separate orders passed by Additional/Joint Commissioner of Income Tax (Appeal)-4, Kolkata,

[Hereinafter referred to as “the CIT appeal”] even dated 05.10.2023 which has emanated from the separate orders u/s 143(1) of the Income Tax Act, 1961.

2. There was a short delay of 3 days in filing these before the Tribunal. Considering the genuine reason for the shot Delay of 3 days in filing these appeals and no objection of learned additional CIT DR to the request of the assessee condonation, we condone the short delay of 3 days and these four appeals are admitted.

3. Since, in these four appeals the same assessee has challenged the issue of natural justice as being denied opportunity and therefore heard together and adjudicated by this consolidated order for convenience and brevity.

4. After hearingd both the sides, perusal of records, written submission filed by the assessee before us, these appeals are adjudicated in the following paras.

**Condonation of delay Before the JCIT Appeal:**

5. The Ld. AR submitted that the Ld. CIT(A)/ NFAC has dismissed the appeals of the assessee on limitation grounds for the above said assessment years. He explained that the appeals were delayed by 1850, 1668, 1436 and 9 days before the Ld. JCIT (A) in respect of Appeal Nos 497, 498, 499 and 500/Asr/2024 respectively. In this regard, it was submitted that the appeals before the Ld.

JCIT(A) were against the intimation u/s 143(1) of the Act in which the entire receipts of the assessee trust were taxed without allowing the exemption u/s 11 of the Income tax Act, 1961 while processing of the cases, without opportunity of being heard given to the assessee.

5.1 The Ld. AR further explained that It was submitted on oath in the affidavit by the trustee of the assessee trust that on the income tax e-portal email id vikas1027@yahoo.com which belongs to the younger brother of the trustee who is Government employee of J&K UT and he was not having interest in the affairs of the Trust and he was posted outside the home town and all the communications from the Income tax department were being sent on the said email. He could not inform the trust of having received such mails. Whenever it came to the notice of the trust the counsel approached to take remedial action before the Appropriate Authority. The one of the partners of M/S Ajay Sawhney & Co Chartered Account has confirmed on affidavit that the assessee trust had informed on the processing of the returns and creation of huge demands. He further confirmed that due to oversight and mistake on their part, no further appeal was filed in time before the Ld. CIT(A).

5.2 The AR contended that since the assessee trust had informed the counsel of the Trust and he admitted on an affidavit that appeal could not be filed in prescribed time due to mistake of the staff. The Ld. AR explained that the said delay was not due to negligence or indifference but was caused by a genuine and reasonable belief that the assessment order passed under Section 143(3) superseded the intimation under Section 143(1). This belief was based on the procedural complexity involved in understanding the legal consequences of the two orders. It is humbly submitted that there is no negligence on the part of the assessee and there was sufficient cause not to file the appeals in time, and the delay is totally bonafide and not intentional as the assessee had no intention to jeopardize the interests of revenue by filing the appeals. That the impugned appeals are thus delayed on account of reasons mentioned above which constitutes a reasonable cause and the delay cannot be deemed to be willful nor unreasonable. The delay deserves to be condoned, and the appeal deserves to be admitted and heard on the matter of justice. The Trust will not benefit in any way from the delay in filing of appeal and irreparable loss will be caused to the trust if the delay is not condoned and the appeals are not admitted. No hardship or prejudice will be caused to the respondent in case the delay is

condoned, and the appeals are admitted, however, if the delay is not condoned and the appeal is not admitted the Trust will suffer substantially". He support, he placed reliance on the Hon'ble judgment of the Supreme Court in the case of Collector Land Acquisition v/s Mst. Katiji and Ors- 167 ITR 471 wherein it has been observed that liberal, and fair approach should be adopted in larger public interest while dealing with condonation of delay. The AR also referred the Judgement of Ram Nath Sao and Ors v/s Gobardhan Sao & Ors-AIR 1201 (SC) wherein it has been held that the expression "sufficient cause" in meaning of section 5 of the Limitation Act or order 22 Rule 9 of Civil Procedure Code or any other similar provision should receive a liberal construction so as to advance substantial justice.

5.3 The Ld. DR stands by the impugned order and raised objection to request of the assessee to admit the appeal of the assessee, however he failed to rebut the bonafide and reasonable cause demonstrated by the appellant.

5.4 We find that the appellant has bonafide and sufficient cause for the delay in filing these appeals before the JCIT (A). The delay explained by the appellant constitutes a reasonable cause and that cannot be deemed to be either wilful or unreasonable. In our view, the delays were bonafide and not intentional as the

assessee had no intention to jeopardize the interests of revenue by filing the late appeals because the assessee Trust will not benefit in any way from the delay in filing of appeal and irreparable loss will be caused to the trust if the delay is not condoned and the appeals are not admitted. However, no hardship or prejudice will be caused to the department, if the delay is condoned, and the appeals are admitted. Considering the bona fide reason and the Hon'ble Apex Court Judgement (Supra), the delay of 1850, 1668, 1436 and 9 days in filing appeals before the Ld. JCIT (A) in respect of Appeal Nos 497, 498, 499 and 500/Asr/2024 respectively is hereby condoned. Thus, the delay before the JCIT (A) and before Tribunal are condones and these appeals are admitted.

ITA No. 497/Asr/2024 (assessment year 2017-18).

6. From the record, it is evident that the assessment was completed u/s 143(3) vide order dated 10.06.2019 in which the returned income was accepted by the AO. Thus, the intimation order u/s 143(1)(a) dated 05.08.2017 against which the assessee is in appeal get merged with assessment order passed u/s 143(3) of the Income Tax Act, 1961. These facts are not disputed by the revenue. Accordingly, we accept the grievance of the assessee as genuine, and we direct the Ld. AO to consider the assessment order to rectify the demand created u/s

143(1)(a) of the act against the assessee with respect to the assessment year 2017-18.

ITA No. 498 to 500/Asr/2024 (Assessment Years 2018-19, 2019-20 and 2022-23)

7. In these three appeals the assessee trust has challenged the common issue of denial of the benefit of section 11 of the Act. The Ld. Counsel for the assessee submitted that in the case, the assessee trust is denied the benefit of section 11 of the Act, then assessment of the trust may be completed in the Status of AOP and only the surplus income earned by it has to be charged to tax, based on the financial statements. Copies furnished on record.

7.1 In support of the above argument, the Ld. AR referred to the Judgement of the Hon'ble Delhi High Court in the case of DDIT(E) versus Petroleum Sports Promotion Board (362 ITR-235 (Del) wherein it has been held that in case of a charitable society even if benefit u/s 11 and 12 of the Income tax Act, 1961 is denied and its income was brought to tax as income from other sources, all relevant expenditure were also to be allowed.

7.2 The Ld. AR also placed reliance on the Judgement of the Hon'ble Supreme Court in the case of Commissioner of Income tax v/s Rajendra Prasad Moody- (1978) 115 ITR 519 (SC) wherein it has been held by the Hon'ble Apex Court that

section 57(iii) must be construed broadly and the somewhat wider language of section 37(1) should not affect the interpretation of section 57(iii). The expenditure incurred by the assessee is only for the purpose of promoting the aims and objects for which the Trust was created, and if such expenditure is not allowed, it may amount to taxing the gross receipts of the assessee and not the income, which is not permissible under the Income tax law.

8. In view of factual matrix and judicial pronouncement, we hold that in the present case since the assessee trust is denied the benefit of section 11 of the Act, and hence the assessment of the trust would be completed in the Status of AOP and only the surplus income earned by it has to be charged to tax after allowing deduction of revenue expenses because the disallowance of expenditure would tantamount to taxing the gross receipts of the assessee and not the income, which is not justifiable under the Income tax Act, 1961.

9. Accordingly, we direct the AO to treat the assessee trust as AOP and charge to tax the income of the assessee after allowing deduction of the expenses claimed as per the financial statement furnished with reference to the books of accounts as per law.

10. Thus, we restore all the four captioned appeals to the file of the AO for the limited purpose as per our observation herein above.

7. In the result, the captioned four appeals of the assessee are allowed for statistical purposes.

**Order pronounced on 26.09.2025 in the open Court.**

**Sd/-**  
**(UDAYAN DASGUPTA)**  
**Judicial Member**

**Sd/-**  
**(DR. M. L. MEENA)**  
**Accountant Member**

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Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By order