

**IN THE INCOME-TAX APPELLATE TRIBUNAL “C” BENCH,
MUMBAI**

**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
&
SMT.RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.4116/MUM/2025
(A.Y.2022-23)**

Peoples Mobile Hospital Dr. Annie Besant Road, Worli, Mumbai-400030.	Vs.	Deputy Director of Income Tax Department, CPC, Bengaluru, Income Tax Officer Exemption Ward 2(2), 6 th Floor, MTNL TE Building, Pedder Road, Mumbai-400026.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No:AAAAP0083B		
Appellant	..	Respondent

Appellant by :	Ms. Vasanti Patel
Respondent by :	Shri Virabhadra Mahajan- Sr. DR

Date of Hearing	03.11.2025
Date of Pronouncement	12.11.2025

आदेश / O R D E R

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the ADDL/JCIT (A) Kanpur [hereinafter referred to as “CIT(A)”] dated 27.03.2025 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for the Assessment Year [A.Y.] 2022-23.

2. The grounds of appeal are as follows:

“1. DENIAL OF DEDUCTION/EXEMPTION UNDER SECTION 11 OF THE ACT:

1.1. *On the facts and in the circumstances of the case and in law the learned Commissioner of Income-tax (Appeals) [CIT(A)] erred in confirming the denial of exemption/deductions under Section 11 of the Act resorted to by the Learned Deputy Director of Income Tax, Centralized Processing Centre, Bengaluru (herein after referred to as "Ld. DDIT-CPC") while processing the Return of Income under Section 143(1) of the Act on the grounds that the Audit Report in Form 10B and Form 10 being statement to be furnished for accumulation of income under section 11(2) of the Act were filed belatedly, though filed before filing the Return of Income which was filed on 30.12.2022 i.e. under section 139(4) of the Act*

1.2. *The learned CIT(Appeals) and the learned Ld. DDIT-CPC failed to appreciate that the time limit prescribed for filing the Audit Report in Form 10B and Form 10 for accumulation of income under section 11(2) of the Act is only declaratory and not mandatory. The lower authorities failed to appreciate that delay in filing the Audit Report is only a procedural lapse and the same cannot be fatal leading to denial of exemption/benefits under Section 11 of the Act particularly when the said Audit Report and Form 10 for accumulation of income under section 11(2) of the Act was available on record when the Return of Income was processed under Section 143(1) of the Act.*

1.3. *The learned CIT (Appeals) failed to appreciate the explanations/submissions furnished by the Appellant and the legal position emerging from the decisions of various High Courts/Income-tax Appellate Tribunals dealing with amended provisions of Section 12A(b) of the Act.*

In view of the above, the Appellant prays that the learned Ld. DDIT-CPC may kindly be directed to grant the exemption under Section 11 of the Act to the Appellant and reduce the Total Income to Rs.2,29,150/- as declared in the Return of Income filed.

II. CONSEQUENTIAL DISALLOWANCES:

2.1. *Without prejudice to the above, it is submitted that the denial of exemption under Section 11 of the Act, as discussed above, has led to denial of deductions of the following amounts resulting into huge demand of Rs.1,64,92,870/-against the Appellant:*

2.1.1 *A sum of Rs.2,88,03,168/- under section 11 of the act being the amount of revenue expenditure incurred to be allowed as application of income*

2.1.2 A sum of Rs.56,53,521/- under section 11(1)(a) of the Act being amount accumulated or set apart for application to charitable or religious purposes or for the stated objects of the trust to the extent it does not exceed 15 per cent of income derived from property held in trust.

2.1.3 A sum of Rs.30,00,000/- being amount accumulated or set apart for specified purposes under section 11(2) read with section 11(5) of the Act.

2.1.4 A sum of Rs.25,000/- under section 11 of the Act being the amount of capital expenditure incurred to be allowed as application of income.

It is submitted that the disallowances referred to above are unjustified and bad in law as the denial of exemption under Section 11 of the Act itself is ill-founded and unwarranted.

In view of the above, the Appellant prays that the learned Ld. DDIT-CPC be directed to grant deductions for the above items as claimed in the Return of Income and reduce the total income accordingly.

III. ADJUSTMENT MADE UNDER SECTION 143(1) OF THE ACT IS INVALID:

3.1. *Without prejudice to the above, it is submitted that on the facts and in the circumstances of the case and in law, the learned CIT(Appeals) erred in confirming the adjustments resorted to by the learned Assessing Officer while processing the Return of Income under Section 143(1) of the Act.*

3.2. *It is submitted that the basic issue leading to denial of exemption under Section 11 of the Act viz. delay in filing the Audit Report in Form 10B and Form 10 for accumulation of income under section 11(2) of the Act, itself is a highly debatable question of law and the same cannot be the ground for adjustment/additions/disallowances under Section 143(1)(a)/143(1) of the Act.*

It is submitted that the learned Ld. DDIT-CPC has resorted to the adjustments without complying with the provisions of Section 143(1) of the Act.

The Appellant prays that the adjustments made while processing the Return of Income under Section 143(1) of the Act are illegal, unwarranted and contrary to the law and may therefore be kindly struck down/ deleted.

The Appellant hereby craves the leave to add to, alter or amplify the aforesaid grounds of appeal, which are independent of each other, as and when the need arises at the time of hearing.”

3. The brief facts of the case are that the assessee is a public trust registered under the Maharashtra Public Trust Act, 1950 and also u/s. 12AB of the IT Act, 1961. The assessee filed its return for A.Y. 2022-23 on 30.12.2022 declaring total income of Rs. 2,29,150/-. The Central Processing Centre (CPC), Bangalore issued an intimation u/s. 143(1) dated 08.03.2023 determining the taxable income at Rs. 3,77,10,839/- after making the following adjustments:

i. Disallowance of amount applied u/s. 11 (on account of non-filing of Form 10B by specific date)	Rs. 3,44,81,689
ii. Addition of amount accumulated/set aside u/s. 11(21) on account of non-filing of Form 10)	Rs. 30,00,000
Total	Rs. 3,74,81,869

3.2 Aggrieved, the assessee preferred an appeal before Id. CIT(A) on 20.04.2023. The assessee had also submitted petitions for condonation of delay in filing Form no. 10B and Form no. 10, before the CIT(E) on 16.03.2023 as there was a delay of 84 days in filing Form 10B and of 51 days in filing Form 10. However, both these petitions were rejected by Id. CIT(E) vide orders u/s. 119(2)(b) dated 03.03.2025 and 12.03.2025 respectively.

3.3 During the course of appellate proceedings, Ld. CIT(A) observed that the appeal had become void as condonation of delay had not be granted by Id.

CIT(E) and hence dismissed the appeal vide order dated 27.03.2025. Further aggrieved, he assessee filed an appeal before the Tribunal on 16.06.2025.

4. Before us it has been submitted that the assessee had also filed a writ petition no. 2632 of 2025 before the Hon'ble High Court challenging the rejection of application u/s. 119(2)(b) for condonation of delay of 84 days in filing of Form No. 10B. Vide order dated 15.09.2025 the rejection order u/s. 119(2)(b) dated 03.03.2025 has been quashed by the Hon'ble Jurisdictional High Court and the delay of 84 days in filing of Form 10B has been condoned.
- 4.2 Ld. AR has placed a copy of the order of the Hon'ble High Court before us and has submitted that, in view condonation of delay, the grievance of the assessee has been redressed and hence the present appeal may be treated as withdrawn. Ld. DR has not objected to the said proposition.
5. After hearing both the parties, we hereby dismiss the appeal as withdrawn.
6. In the result, the appeal of the assessee is dismissed.

Order Pronounced in Open Court on 12.11.2025

Sd/-

(PAWAN SINGH)

(JUDICIAL MEMBER)

Sd/-

(RENU JAUHRI)

(ACCOUNTANT MEMBER)

Place: Mumbai

Date 12.11.2025

Anandi.Nambi/STENO

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

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

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.