

आयर अपीलिय न्यायाधिकरण में, हैदराबाद 'बी' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

श्री मंजूनाथ जी, माननीय लेखा सदस्य एवं श्री रवीश सूद, माननीय न्यायिक सदस्य
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

आयकर अपील सं./I.T.A.No.820/Hyd/2025
(निर्धारण वर्ष/ Assessment Year: 2022-23)

Kranthi Educational Society, Bhadrachalam. PAN : AAAAK2153M (अपीलार्थी/ Appellant)	Vs.	The Deputy Commissioner of Income Tax, (Exemption), Circle – 1(1), Hyderabad. (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri. DLS Narasimha Rao, C.A. (Appeared through Hybrid Mode)
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri D. Narendra Kumar Naik, CIT-DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	13.11.2025
घोषणा की तारीख/ Date of Pronouncement	:	19.11.2025

ORDER

PER MANJUNATHA G., A.M :

This appeal filed by the assessee is directed against the order passed by the Addl/JCIT(Appeals)-2, Noida, dated 13.03.2025 pertains to A.Y. 2022-23.

2. The brief facts of the case are that, the assessee, Kranthi Educational Society, a charitable institution registered under Section 12AA of the Income Tax Act, 1961, (for short "the Act") had filed its return of income for A.Y. 2022-23 on 28.03.2023 under Section 139(8A), declaring NIL income after claiming exemption under Section 11 of the Income Tax Act, 1961 on gross receipts of Rs.10,72,55,472/-. The return was processed by the A.O./CPC, Bengaluru, and an intimation under Section 143(1) of the Act, dated 29.12.2023 was issued, wherein the A.O./CPC denied exemption under Section 11 of the Act, on the ground that, the audit report in Form No. 10B, though dated 28.03.2023, was filed belatedly on 11.05.2024, contrary to the requirement of Section 12A(1)(b) of the Act. Consequently, the CPC treated the gross receipts of Rs.10,72,66,472/- as taxable income and raised a demand of Rs.7,46,74,360/-.

3. Aggrieved with such intimation issued under Section 143(1) of the Act, the assessee preferred an appeal before the Ld. CIT(A).

4. Before the Ld. CIT(A), the assessee submitted that, the adjustment made by the A.O./CPC under Section 143(1)(a) of the Income Tax Act, 1961 was erroneous both on facts and in law, as the denial of exemption under Section 11 of the Act, merely on account of belated filing of Form No. 10B was unjustified. It was further contended that, the audit had

been completed on time and that the financial statements clearly demonstrated excess application of income amounting to Rs.5,57,229/-, thereby satisfying the conditions prescribed under Sections 11 and 12 of the Act. The assessee also argued that, the belated filing of Form No. 10B was only a procedural lapse and that the claim of exemption should not be denied when the substantive requirements were otherwise fulfilled.

5. Ld. CIT(A), after considering the submissions of the assessee, observed that, the A.O./CPC had made the adjustment solely on the ground of non-filing of Form No. 10B within the prescribed time and held that such late filing automatically disentitles the assessee from exemption under Sections 11 and 12 of the Act. The Ld. CIT(A) held that, the adjustment made under Section 143(1)(a) of the Act, was correct, as the non-filing of Form No. 10B within the due date constituted an incorrect claim apparent from the return. Ld. CIT(A) further noted that, no additional evidence was furnished to justify the delay, and although the financial statements reflected excess expenditure over income, the same could be considered only after proper verification by the A.O. In view of the fact that, the delay in filing Form No. 10B was not condoned by the Ld. CIT(E), Ld. CIT(A) held that,

he had no jurisdiction to condone such delay and therefore, upheld the disallowance of Rs.10,72,66,472/- and dismissed the appeal.

6. Aggrieved by the order of Ld. CIT(A), the assessee is now in appeal before us.

7. The learned counsel for the assessee Shri DLS Narasimha Rao, CA, submitted that, the denial of exemption under Section 11 of the Income Tax Act, 1961 only because Form No.10B was filed belatedly is not correct in law. He argued that, the delay in filing the audit report is a procedural defect and cannot override the substantive compliance of Sections 11 and 12 of the Income Tax Act, 1961. He submitted that, the assessee had applied more than 85% of its income for charitable purposes and the financial statements showed excess application of income, which satisfies the primary requirement of the Act. He submitted that the filing of Form No.10B is directory in nature and not mandatory, and such report can be filed at any stage of assessment or appellate proceedings. In support of his contentions, the learned counsel for the assessee relied on certain judicial precedents, including the decision of Hon'ble Jurisdictional High Court in the case of CIT Vs. A.P.S.R.T.C. (2006) 285 ITR 147 (A.P. High Court). He further contended that, the issue relating to the belated filing of Form No.10B is debatable, and therefore, it cannot be adjusted under Section 143(1)(a) of the Act,

which permits only prima facie and arithmetical adjustments. He stated that if the department considered Form No.10B as not filed in time, the correct procedure was to issue a notice under Section 139(9) of the Act, pointing out the defect and providing an opportunity to remove such defect. He argued that, failure to follow Section 139(9) renders the adjustment under Section 143(1)(a) unsustainable.

8. The learned counsel for the assessee further pointed out that, Section 80AC of the Income Tax Act, 1961 has no application to exemptions under Sections 11 and 12 of the Income Tax Act, 1961, as Section 80AC of the Act, covers only deductions under Chapter VIA and not exemptions for charitable institutions. He submitted that, the Ld. CIT(A) had accepted, in para 5.4.3 of the appellate order, that the assessee had excess expenditure of Rs.5,57,229/- and had applied its entire receipts for charitable purposes. He argued that, once this factual position is accepted, the exemption under Section 11 of the Act, could not be denied merely due to belated filing of Form No.10B.

9. Dr. Narendra Kumar Naik, Ld. CIT-DR, on the other hand, relied on the orders of lower authorities. He submitted that, the A.O./CPC had rightly denied the exemption under Section 11 of the Income Tax Act, because, Form No.10B was not filed within the prescribed time. He stated that the requirement of filing the audit report on time is

mandatory under Section 12A(1)(b) of the Act, and that the delay was not condoned by the Ld. CIT(E). He submitted that, the Ld. CIT(A) has correctly upheld the adjustment made under Section 143(1)(a) of the Act, as he has no power to condone such delay and as such, the order of the lower authorities does not call for any interference.

10. We have heard both parties, perused the material available on record and had gone through the orders of the authorities below. The A.O./CPC processed the return of income filed by the assessee on 28.03.2023 and issued intimation under Section 143(1) of the Income Tax Act, 1961 dated 29.12.2023, and determined total income at Rs. 10,72,66,472/- and tax payable at Rs. 7,46,74,360/- by denying exemption claimed under Section 11 of the Income Tax Act, 1961 by the assessee for the reason that, the audit report in Form 10B, has been filed beyond the due date provided under Section 139(1) of the Act r.w.s. 80AC of the Income Tax Act, 1961. The A.O. has denied exemption claimed under Section 11 of the Income Tax Act, 1961 and assessed the gross receipts as income of the assessee without allowing deductions for various expenditures claimed towards application of income and determined total income at Rs. 10,72,66,472/-. There is no dispute with regard to the fact that, the assessee has filed return of income belatedly on 28.03.2023 and along with the return of income, has filed audit

report in Form 10B, which is beyond the due date provided under Section 139(1) of the Income Tax Act, 1961. The assessee is a charitable institution registered under Section 12AA of the Income-tax Act, 1961 and is governed by the provisions of Sections 11 to 13 of the Act. As per Section 12A(1)(b) of the Act, the assessee is required to get its accounts audited by an Accountant as defined in the Explanation to Section 288(2) of the Income-tax Act, 1961 and furnish such audit report on or before the due date specified under Section 139(1) of the Income-tax Act, 1961, even though the return of income may be filed under Section 139(4) of the Act. In the present case, there is no dispute with regard to the fact that, the assessee is registered under Section 12AA of the Income Tax Act, 1961, and is also entitled for exemption under Section 11 of the Income Tax Act, 1961, which is evident from the order passed by the A.O./CPC, where there are no objections on the activities of the assessee for claiming exemption. However, for claiming exemption under Section 11 of the Income Tax Act, 1961, the assessee shall furnish return of income along with audit report in Form 10B on or before the due date provided under the Act. Since the assessee has furnished return of income beyond the due date provided under Section 139(1) and Section 139(4) of the Act, the A.O. has rightly denied the benefit of exemption under Section 11 of the Income Tax Act, 1961.

Insofar as the observation of the A.O. in light of provisions of Section 80AC of the Act, in our considered view, the said provisions have no application to exemption u/s 11 and 12 of the Income Tax Act, 1961, as Section 80AC of the Act covers only deduction under Chapter VIA and not for Charitable Institution which claims benefit for Sections 11 and 12 of the Act. Therefore, on this ground, the denial of exemption by the A.O. is incorrect. Similarly, in respect of the arguments of the learned counsel for the assessee in light of provisions of Section 143(1)(a) of the Act, that denial of exemptions cannot be considered in the intimation issued u/s 143(1) of the Act. In our considered view, claiming exemption without relevant Audit Report in Form 10B is a prima facie adjustment apparent from the return of income filed by the assessee and the same can be adjusted while processing return of income u/s 143(1) of the Act, and thus, there is no merit in the arguments of the learned counsel for the assessee. Accordingly, the same are rejected.

11. So far as the arguments of the learned counsel for the assessee that filing of audit report in Form 10B is directory in nature and not mandatory in light of certain judicial pronouncements, including the decision of the Hon'ble Jurisdictional High Court of Andhra Pradesh in the case of CIT Vs. A.P.S.R.T.C. (2006) 285 ITR 147, in our considered

view, definitely filing of Audit Report is mandatory as per the provisions of Section 12A(1)(b) of the Act, and such Audit Report should be filed on or before the due date provided under the Act. In case, the assessee is unable to file Audit Report for any reasons, then the assessee can file an application before the Ld. CIT(E) for condonation of delay in filing of Audit Report in Form 10B with valid reasons. In the present case, the assessee claims that, there are sufficient reasons for not filing the Audit Report with return of income and one opportunity may be given to the assessee to file the application for condonation of delay. Since the assessee is entitled for exemption after satisfying all the conditions except filing of Audit Report, in our considered view, the request of the assessee must be acceded. To this extent, we are in agreement with the argument of the learned counsel for the assessee.

12. Having said so, let us come back to the determination of total income by the A.O./CPC. The A.O. denied exemption u/s 11 of the Act, and computed income by considering the gross receipts as income of the assessee without allowing any deduction for various expenditure which is evident from the income and expenditure account furnished by the assessee where the assessee has reported gross receipts of Rs.10,72,66,472/- with an excess of expenditure over income of Rs. 5,57,229/-. It is an admitted position of law that once the exemption is

denied for any trust or institution or society, then the income of the said society must be computed in accordance with commercial principles by considering the gross receipts and also after allowing relevant expenditure incurred for earning the income. In the present case, the A.O. considered gross receipts without allowing any deductions for expenditures. Therefore, in our considered view, the method followed by the A.O. for determination of total income is contrary to law and cannot be accepted.

13. In this view of the matter, and considering the facts of the case, we are of the considered view that, for the discussions given hereinabove, the matter needs to be restored to the file of the A.O. for reconsideration of the issue in light of above discussion given hereinabove. Thus, we set aside the order of the Ld. CIT(A) and restore the issue back to the file of the A.O. The A.O. is directed to reconsider the assessment of income of the assessee after allowing an opportunity to the assessee to file an application before the Ld. CIT (Exemptions) for condonation of the delay in filing of audit report in Form 10B and assess the income after the outcome of the application filed by the assessee before the authority for condonation of delay. In case, the assessee is unable to succeed in getting the delay condoned in filing the audit report in Form 10B, then the A.O. is directed to assess the income under normal

commercial principles by considering the books of account maintained by the assessee, the financial statements filed for the relevant assessment year, and also after allowing all expenditure incurred for earning the income. In other words, the A.O. is directed to consider excess expenditure and other income as claimed by the assessee and assess the income as per law.

14. In the result, the appeal filed by the assessee is allowed for statistical purposes in terms of our observations given hereinabove.

Order pronounced in the Open Court on 19th November, 2025.

Sd/- (श्री रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/ JUDICIAL MEMBER	Sd/- (मंजूनाथ जी) (MANJUNATHA G.) लेखा सदस्य/ ACCOUNTANT MEMBER
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Hyderabad, dated 19.11.2025.

TYNM/sps

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Kranthi Educational Society, 14-2-3/A, Gollagatta Road, Venkateswara Colony, Bhadrachalam, Telangana – 507111.
2.	राजस्व/ The Revenue	:	The Deputy Commissioner of Income Tax, (Exemption), Circle – 1(1), Hyderabad.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलिय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad