

**आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA**

**Before Shri Rajesh Kumar, Accountant Member and  
Shri Pradip Kumar Choubey, Judicial Member**

**ITA No.1378/Kol/2025  
Assessment Year: 2018-19**

**Joygopalpur Youth Development Centre.....Appellant  
At Joygopalpur, Sandeshkhali,  
North 24 Parganas, W.B. – 743446..  
[PAN: AAATJ7312A]**

**vs.**

**ITO, Ward-1(1), Exemptions, Kolkata.....Respondent**

**Appearances by:**

Shri P. K. Roy, Advocate, appeared on behalf of the appellant.

Shri Dipu Koley, Addl. CIT-Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : October 28, 2025

Date of pronouncing the order : December 02, 2025

**ORDER**

**Per Pradip Kumar Choubey, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 07.04.2025 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. Brief facts of the case of the assessee are that the assessee being society is registered u/s 12AA of the Act. The case of the assessee was selected for scrutiny on the issue of transaction of trust with specified persons. On perusal of the Form 10AB, the Assessing Officer found that the assessee made payments totalling to Rs.16,96,465/- in the previous year. Notice was issued u/s 142(1) of the Act and vide Notice u/s 142(1), the Assessing Officer asked to submit bank statement to prove the claim of the assessee that neither any payment is made to the persons mentioned in the Original Form 10B nor any payment is made to the

executive committee members which attracts section 13(3). In response to the notice u/s 142(1) dated 22.01.2021, the assessee submitted Bank Statement and stated that the assessee has pointed out the mistake made by the accountant and accordingly, the accountant has rectified the same in revised Form 10B by removing the names mentioned in the Original Form 10B. The Assessing Officer completed the assessment u/s 143(3) r.w.s. 144B assessing total income at Rs.1,13,00,961/- declining exemption claimed by the assessee.

3. Aggrieved by the said order, the assessee preferred appeal before the Id. CIT(A) wherein the appeal of the assessee has been dismissed on the ground that Form 10B has to be filed along with the return of income u/s 139(1) of the Act.

4. Being aggrieved and dissatisfied, the assessee is in appeal before us. The Id. AR of the assessee challenges the very impugned order thereby submitting that the audit report in form no. 10B filed on 30.10.2018 which was well within the due date for furnishing the tax audit report. It has further been submitted that on the same date the assessee has tried to verify the return but was unable to verify the said form 10B due to the technical glitch. The Id. AR further submits that in response to the notice u/s 143(1) of the Act, the assessee submitted relevant documents/explanations including bank statement to prove its claim and revised Form 10B filed on 27.10.2019 where it was reflected that the members of society have noted down any remuneration or compensation from the society. The Id. AR further submits that the delayed filing of form 10B is merely a procedural delay that can be rectified and exemption cannot be denied only on this ground. The Id. AR place reliance to the decision of ITAT, Kolkata in the case of Saraswati Devi Educational And Social Trust vs. ITO in ITA No.873 &

874/KOL/2025 dated 04/11/2025. The ld. AR therefore prayed that the delay may be needed to be condoned by allowing relief to the assessee.

5. On the other hand, ld. DR vehemently supported the orders of the lower authorities and submitted that the assessee was required to file Form 10B along with the return of income within the time prescribed under the Act, which has not been done by the assessee. Therefore, ld. ld. DR submitted that the ld. CIT(A) has rightly rejected the claim of the assessee on account of late filing of Form 10B.

6. Upon hearing the counsels of the respective parties and on perusal of the material available on record, we find that the assessee is a charitable trust registered u/s 12A of the Act and the Assessing Officer denied exemption u/s 11 of the Act on the ground that the audit report in Form 10B had been filed belatedly. We note that the original Form 10B was filed on 30.10.2018 which was well within the due date for furnishing the tax audit report and revised Form 10B was filed on 27.10.2019 at time of Assessment proceedings. We also find that the revised Form 10B was filed before the passing of assessment order u/s 143(3) of the Act and the requirement to file Form 10B u/s 12A read with Rule 17B is directory and not mandatory. We have gone through the cited decision of the Coordinate Kolkata Bench of the Tribunal *Saraswati Devi Educational And Social Trust vs. ITO (supra)* wherein the Tribunal on similar issue while relying upon the decision of Hon'ble Gujarat High Court in the case of *Sarvodaya Charitable Trust* reported in [2021] 125 taxmann.com 75 (Guj) held as under:

*“4. After hearing the rival contentions and perusing the material available on record, we find that the assessee has filed its return of income on 27.03.2021 for A.Y.2020-2021 and on 31.10.2023 for A.Y.2023-2024. The Form 10B and Form 10BB had been filed along with returns of income for the said assessment years under consideration on 27.03.2021 & 31.10.2023, respectively. The due date for furnishing Form 10B/10BB for the assessment year 2020-2021 & 2023-2024 was prior to one month*

before the due date for furnishing return u/s.139(1) of the Act. The intimations/orders u/s.143(1) of the Act had been issued for A.Y. on 24.12.2021 and for AY 2023-2024 on 04.12.2024. The CPC had denied the assessee the benefit of exemption u/s.11 & 10(23C) of the Act on the ground that the audit report in Form 10B/ 10BB had been filed belatedly. The ld CIT(A) dismissed the appeals of the assessee by observing that the in order claim exemption u/s 11 & 12 of the Act certain conditions are required to be satisfied which were not fulfilled by the assessee. It is noticed that the audit report was very much available with the Assessing Officer when the returns of income were processed and this is only a technical/procedural breach. The coordinate bench of the Tribunal has been holding that such technical lapse cannot lead to denial of exemption u/s.11 & 12 of the Act that too in the intimation u/s.143(1) of the Act. This view is also supported by the decision of the Hon'ble Gujarat High Court in the case of Sarvodaya Charitable Trust, reported in [2021] 125 taxmann.com 75 (Gujarat), wherein the Hon'ble High Court has held that exemption u/s.11 of the Act cannot be denied for delayed filing of Form 10B. It has also been held by the Hon'ble High Court that as the assessee is a charitable trust who satisfies the conditions for availing the benefit of exemption, the assessee could not be denied exemption merely on the ground that Form 10B was filed belatedly especially when legislature had conferred wide discretionary powers to condone such delay on authorities concerned. Consequently, respectfully following the decision of the Hon'ble Gujarat High Court, the intimations issued u./s.143(1) of the Act by the Assessing Officer and confirmed by the ld. CIT(A) denying the benefit of Section 11 & 12 of the Act for A.Y.2020-2021 on account of delay in filing Form 10B and denying the benefit of Sections 11 or 10(23C) of the Act on account of belated filing of Form 10BB for A.Y. 2023-2024, are hereby quashed.

5. In the result, both appeals of the assessee are allowed.”

7 Going over the above discussion and considering the facts of the case, we set aside the order of the ld. CIT(E) and direct the Assessing Officer to grant exemption as claimed by the assessee.

8. In the result, the appeal of the assessee is allowed.

**Kolkata, the 2<sup>nd</sup> December, 2025.**

Sd/-  
**[Rajesh Kumar]**  
Accountant Member

Sd/-  
**[Pradip Kumar Choubey]**  
Judicial Member

Dated: 02.12.2025.

RS

*Copy of the order forwarded to:*

1. Appellant -
2. Respondent -
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches