

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.1782, 1783 & 1785/PUN/2025
निर्धारण वर्ष / Assessment Years : 2020-21 to 2022-23

BR Nath Pai Shikshan Sanstha, Plot No.4, MIDC, Near Vayman Garden Compound, Sindhudurg- 416520. PAN : AABTB1496N	Vs.	CPC, Bangalore.
Appellant		Respondent

Assessee by : Shri P. P. Jayaraman
Revenue by : Smt. N. C. Shilpa
Date of hearing : 19.11.2025
Date of pronouncement : 28.11.2025

आदेश / ORDER

PER BENCH :

These appeals filed by the assessee are directed against the separate orders dated 05.06.2025 passed by Ld. Addl./JCIT(A)-6, Kolkata ['Ld. CIT(A)'] for the assessment years 2020-21 to 2022-23 respectively.

2. Since identical facts and common issues are involved in the above captioned three appeals of the assessee, therefore, we proceed to dispose of the same by this common order.

3. First, we shall take up the appeal of the assessee in ITA No.1785/PUN/2025 for A.Y. 2020-21 as the lead case for adjudication.

ITA No.1785/PUN/2025, A.Y. 2020-21 :

4. The appellant has raised the following grounds of appeal :-

- “1. *Disallowing the exemption claimed u/s 11 (Rs. 3,19,82,333/-):*
That on the facts and the circumstances of the case and in law the Learned Commissioner of Income Tax (Appeals) has erred in confirming the addition made by CPC u/s 143(1) of the Act.
2. *Denial of exemption u/s 11 for pending 12AA registration:*
That on the facts and the circumstances of the case and in law the Learned Commissioner of Income Tax (Appeals) has erred in holding that the denial of exemption by CPC is correct by ignoring the fact that the appellant's case for registration u/s 12AA was pending after ITAT's remand back order and the approval u/s 12AA is granted by CIT(E) on 21.02.2025.
3. *Denial of exemption u/s 11 for delay filing of form 10B:*
That on the facts and the circumstances of the case and in law the Learned Commissioner of Income Tax (Appeals) has erred in holding that the denial of exemption by CPC is correct as the appellant had not filed form 10B along with the return of income.
4. *No opportunity of personal hearing:*
That on the facts and the circumstances of the case and in law the Learned Commissioner of Income Tax (Appeals) has erred in not granting the opportunity of personal hearing before passing the adverse order.
5. *Your appellant prays for permission to add to, amend or alter any or all the grounds of appeal at any time prior to the hearing of the appeal.”*

5. Facts of the case, in brief, are that the assessee is a Charitable Trust duly registered with the Charity Commissioner vide registration number F-2072/SINDHUDURG dated 07.07.2003. The assessee is in the charitable activities of running the CBSE School, Nursing College and other educational courses. The assessee furnished return of income within the extended time limit of 15.02.2021 i.e. on 14.02.2021 declaring total income of Rs.Nil after claiming exemption u/s 11 of the IT Act. In the return of income gross total receipt were disclosed at Rs.3,19,82,333/- and an amount of Rs.3,30,12,428/- was claimed towards application of income during the previous year. Vide intimation dated 24.12.2021, the return was processed u/s 143(1) of the IT Act on an income of Rs.3,19,82,333/- by denying the exemption as claimed by the assessee u/s 11 of the IT Act.

6. Being aggrieved with the above intimation order dated 24.12.2021, the assessee preferred an appeal before Ld. CIT(A). After considering the reply of the assessee, Ld. CIT(A) partly allowed the appeal filed by the assessee by observing as under :-

“5. DECISION:-

5.1 I have carefully gone through the Intimation u/s 143(1), the grounds of appeal and submission made by the appellant in this

regard. Briefly stating facts of the case is that the appellant filed return of income which was processed u/s 143(1) by CPC making certain adjustments over and above the returned income. The only issue involved in this case is that the appellant which is a registered charitable society had claimed exemption u/s 11 of the I.T. Act against its income which was disallowed in the Intimation u/s 143(1). 5.2 Ground of appeal no. 1 is against not allowing exemption u/s 11 of the I.T. Act claimed against the gross receipts of the Trust and also not allowing expenses incurred on revenue account against the receipts. Facts involved in the issue is that the appellant is a Trust registered under Bombay Public Trusts Act and runs certain educational institutions. As per appellant's submission filed during the appellate proceedings, it had applied for registration u/s 12AA of the I.T. Act before the jurisdictional Commissioner twice and every time it was rejected. The appellant went on filing return of income claiming exemption u/s 11 of the Act. As per ITR filed, the appellant's gross receipts during the year was Rs.3,19,82,333/- against which it claimed to have incurred expenses on revenue account for Rs.3,30,12,428/-. Since the appellant was not registered u/s 12AA of the Act and also did not file any audit report in Form 10B along with the return, exemption u/s 11 was denied by CPC while processing the return u/s 143(1). While doing so, the gross receipts of Rs.3,19,82,333/- taken as its taxable income. The appellant claimed that even if the benefit of sec. 11 is not allowed, the expenses incurred against the receipts should have been allowed as deduction, in which situation, its taxable income would be nil. In this regard, I would like to highlight the heading of chapter III of Income Tax Act. It is "Incomes which do not form part of total income.". Both sections 10 and 11 are included within this chapter. Moreover, first line of section 10(23C) starts with the words – "any income received by any person on behalf of....". Intention of the legislature is clear. If the conditions of sec. 10(23C) are satisfied, then the entire income or receipts of the Institute or the Organisation will be exempt. Vice-versa if the conditions are not satisfied then the entire income or receipts shall be taxed. Similar is the case with the provisions of sec. 11, which starts with – "income derived from property held under trust.....". Here I would also like to highlight the distinction between Chapter III and Chapter VIA of the Act. Chapter III as already stated above is regarding 'exemption of incomes' whereas Chapter VIA is regarding 'deductions in respect of certain payments / incomes'. In Chapter VIA, all the sections are related to deductions against income / receipts of an assessee. The difference is clear. Chapter III does not mention anything about expenses incurred against income whereas Chapter VIA is solely in respect of expenses incurred against income. I am therefore of the opinion that AO, CPC rightly brought to tax the entire receipts after

claim of exemption u/s 11 claimed in ITR was denied. This ground of appeal is therefore dismissed.

5.3 Ground of appeal no. 2 is against charging of interest u/s 234B and 234C of the Act. In this regard, it is to be stated that interest u/s 234A, 234B and 234C are mandatory in nature and depends on the dates of filing return of income and dates and amounts of prepaid taxes. No factual or legal issue is involved in the same and their calculation are purely mathematical calculation. The jurisdictional assessing officer is therefore directed to levy interest u/s 234A, 234B and 234C as per law. These grounds of appeal are allowed with the above observation.

In result, the appeal is partly allowed.”

7. It is the above order against which the assessee is in appeal before this Tribunal.

8. Ld. AR appearing from the side of the assessee submitted before us that the order passed by Ld. CIT(A) is unjustified wherein the 143(1) order passed by CPC was confirmed wherein exemption claimed u/s 11 was denied on the ground of non availability of registration u/s 12AA of the IT Act & also for non filing of Form 10B Report.

9. Ld. AR submitted before us that the issue before the Tribunal is regarding disallowance of claim u/s 11 of the IT Act by CPC in 143(1) proceedings, however it is also relevant to discuss the issue of registration u/s 12AA of the IT Act which has substantial bearing on the instant case in hand. The relevant facts are that the application dated 13.11.2019 for registration u/s 12AA of the IT

Act was rejected by Ld. CIT, Exemption, Pune on 21.09.2020 for non production of documents/details, which the assessee could not produce due to Covid outbreak. Against 12AA rejection order, the assessee preferred an appeal before ITAT and coordinate bench of this Tribunal vide order dated 20.12.2022 restored the issue of registration u/s 12AA back to the file of Ld. CIT, Exemption, Pune for fresh adjudication as per law. Ld. AR further submitted that Ld. CIT, Exemption, Pune vide order dated 21.02.2025 by giving effect to the above decision of the Tribunal dated 20.12.2022, granted registration u/s 12AA of the IT Act to the assessee for assessment year 2020-21 and assessment year 2021-22. Ld. AR also submitted that registration u/s 12AA was also granted for subsequent period i.e. from Asstt. Year 2022-23 to 2025-26.

10. Ld. AR further submitted that admittedly registration u/s 12AA was not available with the assessee, when CPC vide order dated 24.12.2021 rejected the claim of exemption u/s 11 for assessment year 2020-21, however the section 12AA rejection order was subjudice before ITAT and subsequent to passing of impugned 143(1) order by CPC a coordinate bench of this Tribunal allowed the appeal of the assessee which was filed against the CIT,

Exemption order rejecting 12AA application and the matter was restored back to the file of Ld. CIT, Exemption, Pune for reconsidering the application of the assessee for registration u/s 12AA of the IT Act and subsequently vide order dated 21.02.2025, Ld. CIT, Exemption, Pune granted the registration u/s 12AA of the IT Act for the assessment year 2020-21 and also for Asstt Year 2021-22 and this fact was brought in the knowledge of Ld. CIT(A) at the time of hearing of appeal against the impugned 143(1) order passed by CPC, however Ld. CIT(A) dismissed the appeal filed by the assessee by saying that registration u/s 12AA of the IT Act was not available with the assessee at the time of filing of return of income & Form 10B was also not filed. Even 154 rectification application was also rejected by Ld. CIT(A).

11. Ld. AR ultimately contended that the registration u/s 12AA of the IT Act was granted to the assessee on 21-02-2025 for the impugned asstt. years i.e. for asstt. years 2020-21 & 2021-22 & therefore the assessee is entitled to claim exemption u/s 11 of the IT Act for respective assessment years. Regarding belated furnishing of Form 10B, Ld. AR contended that the filing of Form 10B has been held to be procedural & not mandatory by various

coordinate benches of this Tribunal & also by Hon'ble High Courts. It was also argued that even if Form 10B was filed belatedly exemption u/s 11 can be granted. In this regard, Ld. AR relied on judgement passed by Hon'ble Gujarat High Court in the case of CIT, Exemption vs. Anjana Foundation, 168 Taxmann.com 462 wherein belated Form 10B was directed to be accepted/considered for the purposes of grant of exemption u/s 11 of the Act. Ld. AR also submitted that immediately after grant of registration u/s 12AA of the IT Act Form 10B report was furnished online. Accordingly, Ld. AR requested before us to allow the exemption u/s 11 of the IT Act.

12. Ld. DR appearing from side of the Revenue relied on the orders passed by subordinate authorities & requested to confirm the same.

13. We have heard Ld. counsels from both the sides & perused the material available on record including paper-book & copy of case laws furnished by the assessee. In this regard, we find that the exemption claimed by the assessee u/s 11 of the IT Act was denied by CPC vide intimation order dated 24-12-2021 since details of 12AA registration were not available in the return of income &

Form 10B was not furnished by the assessee within the prescribed time limit. We further find that the application dated 13-11-2019 for registration u/s 12AA of the IT Act was allowed vide order dated 21-02-2025 & registration u/s 12AA of the IT Act was granted to the assessee for assessment years 2020-21 & 2021-22. Considering the fact of grant of registration u/s 12AA of the IT Act to the assessee retrospectively for asstt. year 2020-21 & 2021-22, we are of the considered opinion that Ld. CIT(A) ought to have allowed the appeal filed by the assessee. We also find that Form 10B report was filed by the assessee belatedly & in this regard Ld. AR relied on judgement passed by Hon'ble Gujarat High Court in the case of, CIT, Exemption vs. Anjana Foundation, 168 Taxmann.com 462 wherein Hon'ble Court passed following order :-

“2. The brief facts are that the respondent - assessee is the Public Charitable Trust registered under the provisions of the Bombay Public Trust Act, 1950.

3. The assessee filed return of income for the Assessment Year 2021-2022 on 28.12.2021 declaring total income of Rs.22,967/- against the expenditure of Rs.74,061/- and shown deficit of Rs.51,094/-.

4. The return was processed under Section 143(1) of the Act by the CPC and by order dated 20.09.2022, adjustments were made on entire income of the assessee trust including the corpus donation, voluntary donation and other income on the ground that the assessee did not file the requisite form 10B along with the return of income and the CPC assessed the total taxable income entirely by making addition by

dis-allowing the exemption claimed by the assessee under Sections 11 and 12 of the Act which raised the demand of Rs.8,59,78,930/-.

5. Being aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax, National Faceless Appeal Centre (NFAC) who vide order dated 09.08.2023 dismissed the appeal filed by the assessee. The assessee, therefore, preferred an appeal before the Tribunal who by impugned order dated 07.02.2024 allowed the appeal relying upon the decision of this Court in the case of Association of Indian Panel Board Manufacturer v. DCIT [\[2023\] 157 taxmann.com 550 \(Gujarat\)](#). The Tribunal has observed as under:

"10. In view of the above, it is evident that the assessee had demonstrated to the ld. CIT(A) that the necessary Form 10B had been prepared much in advance before the due date of filing of return of income and had been filed before the ld. CIT(A) also.

11. In the light of the above facts, we hold that since the failure to file Form No.10B was the only reason for the adjustment made to the return of income of the assessee subjecting its entire income to tax on the filing of the Form 10B to the ld. CIT(A), the assessee ought to have been allowed its claim of exemption to its entire income. The Hon'ble jurisdictional High Court in the case of Association of Indian Panel board Manufacturer v Deputy Commissioner of Income Tax [\[2023\] 157 taxmann.com 550 \(Gujarat\)](#) (Gujarat), has categorically held that filing of Form 10B alongwith the return of income is only a procedural requirement and cannot be treated as mandatory requirement for the purpose of claiming exemption u/s 11 & 12 of the Act and even if filed at a later stage the assessee is entitled to exemption claimed. The ITAT Mumbai Bench in the case of Shree Bhairav Seva Samiti v. Income Tax Officer [\[2023\] 149 taxmann.com 478/101 ITR\(T\) 708 \(Mumbai - Trib.\)](#) allowed assessee's claim to exemption u/s 11 of the Act, denied in identical circumstances by the CPC in adjustment made u/s 143(1) of the Act for non-filing of form 10B alongwith return of income, but which subsequently filed by the assessee, following the decision of the Hon'ble Bombay High Court in the case of CIT v. Xavier Kalavani Mandal (P) Ltd which held that even if form 10B is filed at a later stage exemption cannot be denied u/s 11 of the Act. The relevant portion of the order is as under:-

"9. In the present case, it is undisputed that the assessee trust is registered under section 12AA of the Act for the past 40 years and the said registration is still in existence. It is also not the case of the Revenue that the assessee has ceased to be a

religious or charitable institution. Further, it is also not the case of the Revenue that the accounts of the assessee have not been audited by an accountant, and an audit report in Form 10B has not been obtained. Only on the technical aspect that Form 10B was not filed along with the return of income for the relevant assessment year, the exemption claimed under section 11 of the Act has been denied to the assessee without going into the merits. Further, no relief was granted to the assessee even when the assessee filed the application under section 154 of the Act. We find that while dealing with similar facts the Coordinate Bench of the Tribunal in Trinity Education Trust v. ITO [IT Appeal No. 669 (Srt.) of 2018, dated 28.02.2022], decided the issue in favour of the taxpayer by observing as under:

"8. We have considered the rival submissions both the parties and perused the order of lower authorities carefully. We find that there is no dispute that at the time of filing of return of income, the audit report has required under Form 10B was not uploaded once uploaded on the system consequently the AO/CPC not allowed the exemption claimed under section 11. Assessing Officer/CPC brought the entire receipt as taxable income. On receipt intimation under section 143(1) of the Act the assessee uploaded in Form 10B and filed application for rectification under section 154 of the Act. The application of the assessee was rejected on the ground report in Form 10B was not furnished before due date of return of income. The Id. CIT(A) dismissed the appeal of the assessee by taking view the audit report in Form 10B was not uploaded before due date of return of income.

9. We find that the Hon'ble jurisdictional High Court in case of CIT v. Xavier Kalavani Mandal (P.) Ltd. (supra) held that in order to claim exemption under section 11, the assessee can file audit report in Form 10B even at later stage either before the Assessing Officer or before appellate authority by showing a sufficient cause. Further, Hon'ble jurisdictional High Court decision in case of Sarvodaya charitable Trust v. ITO (Exemption) (supra) also held that where the assessee is a public charitable trust registered under section 12A of the Act and substantially satisfied condition for availing benefit of exemption as a charitable could not be denied exemption, the assessee merely on bar of limitation in furnishing audit report in Form 10B. Considering the aforesaid and legal discussion, we find that though the assessee has not filed any return of income at the time, however, it was available before the Id. CIT(A) as it was uploaded much before filing application under

section 154. Therefore, respectfully following the decisions of Hon'ble jurisdictional High Court in case of CIT v. Xavier Kalavani Mandal (P.) Ltd. (supra) and in Sarvodaya charitable Trust v. ITO (Exemption) (supra), we find that the assessee has complied the procedural requirement, therefore, the Assessing Officer/CPC is directed to verify the claim of the assessee and grant necessary deduction under section 11 of IT Act. In the result, the appeal of the assessee is allowed for statistical purposes."

10. As in the present case also the assessee has complied with the procedural requirement of obtaining and filing Form 10B, therefore, respectfully following the aforesaid decision of the Co-ordinate Bench of the Tribunal, the Assessing Officer is directed to decide the claim of the assessee under section 11 on merits, after accepting the Form 10B filed by the assessee. Accordingly, grounds raised by the assessee are allowed for statistical purposes."

6. In view of the above decision, the Tribunal held that the claim of the assessee for exemption to its entire income under Section 11 of the Act is required to be allowed and AO/CPC was directed accordingly to delete the adjustment made in the intimation under Section 143(1) of the Act.

7. Considering the above reasons assigned by the Tribunal relying upon the decision of this Court, we are of the opinion that no question of law much less any substantial question of law arises out of the impugned order of the Tribunal.

8. The appeal therefore being devoid of any merit is accordingly disposed of."

14. Respectfully following the above judgement passed by Hon'ble Gujarat High Court in the case of CIT, Exemption vs. Anjana Foundation, 168 Taxmann.com 462, we find force in the arguments of Ld. Counsel of the assessee that filing of Form 10B is procedural & not mandatory & therefore belated filing of Form 10B will not adversely affect the eligibility of exemption u/s 11 of

the IT Act. Also considering the fact that Ld. CIT, Exemption, Pune granted registration u/s 12AA of the Act to the assessee for the period under consideration i.e. for Asstt. Years 2020-21 & 2021-22 & Form 10B report was filed by the assessee though belatedly, we are of the considered opinion that the assessee is entitled to get benefit of exemption u/s 11 of the IT Act. Accordingly, we deem it appropriate to set-aside the order passed by Ld. CIT(A) & in view of our above discussion remand the matter to the file of the Jurisdictional Assessing Officer with a direction to decide the claim of the assessee u/s 11 on merits after accepting the Form 10B belatedly filed by the assessee. Thus, the grounds raised by the assessee are allowed for statistical purposes.

15. In the result the appeal filed by the assessee in ITA No.1785/PUN/2025 for A.Y. 2020-21 is allowed for statistical purposes.

ITA Nos.1782 & 1783/PUN/2025,
A.Ys. 2021-21 & 2022-23 :

16. Since the facts and issues involved in the remaining appeals of the assessee for the assessment years 2021-22 & 2022-23 are identical to the facts of the case for assessment year 2020-21,

therefore, our decision in ITA No.1785/PUN/2025 for A.Y. 2020-21 shall apply *mutatis mutandis* to the remaining appeals of the assessee in ITA Nos.1782 & 1783/PUN/2025 for A.Ys. 2021-22 & 2022-23. Accordingly, the remaining appeals of the assessee in ITA Nos.1782 & 1783/PUN/2025 for A.Ys. 2021-22 & 2022-23 are also allowed for statistical purposes.

17. To sum up, all the above captioned three appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on this 28th day of November, 2025.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 28th November, 2025.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Addl./JCIT(A)-6, Kolkata.
4. The Pr. CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.