

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Hybrid Court Hearing]**

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No.: 334/PAT/2025
Assessment Year: 2018-19**

Magadh Homiopathik Medical College And Hospital	Vs.	ITO, Ward-1, BiharSharif Nalanda, Patna
(Appellant)		(Respondent)
PAN: AABTM7238F		

Appearances:

Assessee represented by : Shri Saba Mahmood, CA

Department represented by : Shri Himanshu Kumar, CIT

Date of concluding the hearing : 17-September-2025

Date of pronouncing the order : 04-December-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Id. Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Id. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2017-18 dated 24.03.2025.

1.1 The Registry has informed that the appeal is delayed by 46 days by the assessee. However, the assessee has not filed any petition before the ITAT for seeking condonation of delay of 46 days. However, a perusal of Form No. 36 filed shows that in the row for the appeal details, the date of order under section 250 of the Act is mentioned as 24/03/2025 and the date of receipt the order is mentioned as 20/06/2025. The limitation arises from the date of receipt of the order of the first appellate



authority. Since the appeal has been filed on 16/07/2025, the same is within time from the date of receipt of the order and, therefore, there is no delay in filing the appeal and the appeal is admitted for hearing.

2. The grounds of appeal raised are as under:

“1. Ground 1 That the appellant has requested before Ld. CIT (A) to adjourned the hearing vide receipt no 896845791080325 dt 08.03.2025.

2. Ground 2 No opportunity was given to be heard before passing the order which is against the natural justice.

3. Ground 3 For that the other grounds of appeal, if any, will be urged at the time of hearing”

3. Brief facts of the case are that the assessee is an AOP Trust engaged in charitable activities and had not filed its return of income for AY 2018-19. As per the information available with the Assessing Officer (“the Ld. AO”), during the year under consideration the assessee had made cash deposits to the tune of Rs. 54,75,190/- and had received interest of ₹52,971/-. The case was reopened u/s 147 of the Act and the notice u/s 148 dated 31.03.2022 was issued to the assessee. During the assessment proceedings, the ld. AO made an addition of ₹54,75,190/- on account of unexplained cash deposits and ₹52,971/- as unexplained interest income. The total income of the assessee was assessed at ₹55,28,961/- by the ld. AO under section 147 read with section 144 of the Income Tax Act.

4. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who went through the grounds of appeal and noted that despite granting five opportunities of being heard, the ld. AR of the assessee had refrained from attending the appellate proceedings and had not furnished any submission, and, therefore relying upon the various judicial pronouncements, the observation of the ld. AO and after



perusing the submission of the assessee, observed that the activities undertaken by the Trust were fully exempt under section 10(23C)(iiiad) and (iii ae) of the Act. Total fees collection from the students of the Institution was ₹98,30,901.25, which was under ₹ one crore. The assessee explained that the gross receipt of the Institution being fees from the students was deposited in the Bank either in cash or through bank transfer but the assessee had not submitted any material or document and had not complied with any of the notices issued and in Column 12 of Form No. 35, the assessee had not preferred to submit additional documentary evidence under Rule 46A, therefore, the appeal of the assessee was dismissed.

5. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

6. Rival contentions were heard and the submissions made have been examined. At the outset, ld. A.R. submitted that the order passed by the ld. AO and CIT(A) was *ex-parte* and neither before the Ld. AO nor before the Ld. CIT(A) proper representation could be made as the concerned person looking after the taxation proceeding was suffering from COVID-19. The assessee had sought adjournment but the same was not allowed as is mentioned in Ground No. 1. The ld. AR requested that the matter may be remanded to the Ld. AO as the assessee has sufficient evidence in support of the cash deposits in the Bank account. We find that the assessee claims exemption under section 10(23C)(iiiad) and (iii ae) of the Act and had sought adjournment which was not allowed by the ld. CIT(A) and the ld. Counsel prayed before the Bench that the matter may be remanded to the AO. Therefore, in the interest of justice and fair play, we are inclined to set aside the order of the ld.



CIT(A) and remit the matter to the file of ld. AO to frame the assessment afresh and with a direction that the assessee shall produce all necessary evidences in support of the claim that the cash deposits were out of the fees receipts from the students of the Institution, and the income of the assessee was exempt. The assessee shall be at liberty to raise all legal issues raised in the grounds of appeal before us and shall not seek unnecessary adjournments. At the same breath, we also hereby caution the assessee to promptly co-operate with the proceedings before the ld. Assessing Officer failing which the ld. Assessing Officer shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on the record. Thus, all the grounds raised by the assessee are partly allowed for statistical purposes.

7. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 4th December, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 04.12.2025



Copy of the order forwarded to:

- 1. Magadh Homiopathik Medical College and Hospital, Biharshariff Nalanda, Patna-803101, Bihar**
- 2. ITO, Ward-1, Lok Nayak Bhawan, Income Tax Department, Patna-800001, Bihar.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata

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