

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'A' BENCH, KOLKATA**

Before

**SHRI GEORGE MATHAN, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No.: 1577/KOL/2025
Assessment Year: 2019-20**

Father Leblond Trust (Appellant)	Vs.	CPC, Bengaluru (Respondent)
PAN: AAATF1701D		

Appearances:

Assessee represented by : Giridhar Dhelia, Advocate.

Department represented by : Santanu Ghosh, Sr. DR.

Date of concluding the hearing : 17-November-2025

Date of pronouncing the order : 12-December-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2019-20 dated 20.12.2024.

1.1. The Registry has informed that the appeal is barred by limitation by 140 days. The assessee has filed a petition for condonation of delay explaining the reasons that the concerned trustee is a senior citizen and has been suffering from several illnesses and was unaware of passing of the appeal order and came to know only when communication in regard to realisation of demand was received. After perusing the same, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeal within the statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

“1. For that on the facts and in circumstances of the case, the impugned Rectification Order under section 154 in relation to the Intimation us. 143.1 of the Income Tax Act, 1961 passed by the CPC, Bengaluru, on dated 05.09.2020 is arbitrary and bad in law.

2. For that on the facts and in circumstances of the cases and in law, the Ld. AO erred in determining the gross income under a of Rs. 2,04,64,571/- by making additions for the A.Y. 2019-20. Therefore, the Intimation us. 143.1 and related Rectification order u/s. 154 of the Income Tax Act, 1961 for the AY. 2019-20 is illegal, arbitrary and devoid of natural justice.

3. For that on the facts and in circumstances of the case the impugned Appeal Order passed by the Ld. Appellate Authority u/s. 250 of the Income Tax Act is arbitrary and bad in law,

4. For that on the facts of the case, the Ld. CIT(A)/ NFAC was wrong in confirming the addition of Rs. 1,94, 87, 374/- made by the CPC, Bengaluru through its Intimation us. 143.1 of the IT Act, 1961 on account of delayed filing of 10B for the AY. 2019-20 & as such his finding is completely arbitrary, unjustified and illegal.

5. For that the Ld. A.O. disallowed the deduction of Rs. 46,22,936/- for the said year is bad and illegal.

6. For that on the facts and circumstances of the case, the demand has been levied to the assessee amount of Rs. 85,17,420/- which is arbitrarily calculated and unjust for.

7. For that denial of exemption under section 11 for belated filing of requisite Form 10B is unjustified & not as per law as furnishing of Audit Report along with the return is a procedural requirement only.

8. For that the appellant trust craves liberty to add, alter, amend, modify, substitute or delete any grounds of appeal on or before the final hearing if necessity arises.”

3. Brief facts of the case are that the assessee is a trust and is approved under section 12A of the Act vide order dated 30/11/2007. It is stated that the extended due date for filing the original return under section 139(4A) was 31/10/2019. The audit report in Form No. 10BB dated 25/09/2019 was uploaded on 29/10/2019 on the Income Tax portal and the return of income under section 139(4A) was filed on



31/10/2019, i.e. within the extended due date. The assessee received the intimation under section 143(1) of the Act on 18/05/2020. The audit report in Form No. 10BB was uploaded on the portal on 26/09/2020. A rectification request was filed under section 154 of the Act on 19/10/2020 as the assessee was denied the claim of exemption under section 11 of the Act. The rectification order under section 154 of the Act was received on 30/10/2020 and the claim of exemption was denied. Aggrieved with the rectification order, the assessee filed an appeal before the Ld. CIT(A) who, vide the impugned order dated 20/12/2024, dismissed the appeal by stating that the even though the assessee has filed evidence of being a registered trust under section 12A/12AA of the Act, but no audit report in Form No. 10B was filed at the time of filing of the original return which had to be e-filed along with the return and had not been done by the assessee. The assessee had also not given any justification for the delay in filing of Form No. 10B and the power to condone the delay in filing the audit report vests with the Ld. CIT(Exemptions) and not with the Ld. CIT(A). Accordingly, the appeal against the order under section 154 dated 05/09/2020 was dismissed. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

4. Rival submissions were heard and the record and the submissions made have been examined. It was submitted by the Ld. AR that the trust is approved under section 12A of the Act from 2010 and the Form No. 10BB was uploaded on 29/10/2019 and Form No. 10B was uploaded on 26/09/2020 and the intimation had been issued on 18/05/2020. Although Form No. 10B was not available at the time of processing of the return of income, however, a rectification request was filed on 19/10/2020, but the same has been rejected. The assessee has relied



upon the decision in the case of Commissioner of Income Tax (Exemption) Vs Angela Foundation (2025) 170 taxmann.com 658 (SC) vide which the SLP against the order in CIT (Exemption) vs Angela Foundation (2024) 168 taxmann.com 462 (Gujarat) was dismissed on ground of delay as well as on merits and in the order of the Hon'ble High Court it has been held that filing of Form No. 10B is a procedural requirement and the exemption claimed was allowed. The assessee has also relied upon the decisions in the case of Odisha Evangelistic Trust Association Vs ITO Exemption, Ward, Cuttack in ITA No. 199/CTK/2025, order dated 16/07/2025, Silk Association of India vs ITO, Ward 8(2), Kolkata in ITA No. 705/Kol/2025, order dated 30/07/2025 and Bhagini Mandal Trust vs Principal Chief Commissioner of Income Tax [2025] 173 taxmann.com 53 (Telangana). The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.

5. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). It has been held in the case of Silk Association of India v ITO, Ward-8(2), Kolkata, I.T.A. No.705/Kol/2025 A.Y. 2023-24 that filing of Form No. 10B is a procedural requirement. It has been held that the delay in uploading the same was due to a bona fide technical issue and cannot be a ground to deny exemption under sections 11 and 12 of the Act. Accordingly, the intimation issued under section 143(1) without considering the audit report already available was held to be bad in law and liable to be quashed. The CPC was directed to grant exemption under Sections 11 and 12 of the Act by deleting the disallowance made in the intimation. Reliance was placed on the judgment of the Hon'ble Calcutta High Court in the case of CIT v. Rai Bahadur Bissesswarlal



Motilal Malwasie Trust [1996] 195 ITR 825 (Cal), wherein it was held that the filing of the audit report is a procedural requirement, and so long as the report is available with the Assessing Officer before completion of the assessment, exemption under Section 11 cannot be denied. It is also been held in the case of Bhagini Mandal Trust vs PCCIT that the delay in filing Form No. 10B for a compelling reason should not lead to denial of exemption to a charitable trust with a long history of compliance. The principle laid down by the Hon'ble Jurisdictional High Court of Calcutta in the case of Rai Bahadur Bissesswarlal Motilal Malwasie Trust (supra) is squarely applicable to the present case of the assessee. Further, the exemption under section 11 could not have been disallowed in the course of the intimation under section 143(1) and accordingly, the order of the Ld. CIT(A) is hereby set aside and the Ld. AO is directed to consider the audit report filed and grant the required exemption as per law since filing of the audit report is a procedural requirement as has been judicially held in various decisions relied upon by the assessee and the exemption claimed cannot be denied in the intimation for delayed audit report in Form No. 10B. Accordingly, the grounds of appeal are partly allowed for statistical purposes.

6. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 12th December, 2025.

Sd/-

[George Mathan]

Judicial Member

Sd/-

[Rakesh Mishra]

Accountant Member

Dated: 12.12.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Father Leblond Trust, Bhimbhar, Madati, Darjeeling, West Bengal, 734426.**
2. **CPC, Bengaluru.**
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