

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1442/Bang/2025
Assessment Year: 2017-18

APMC Tarikere 01, APMC, B.H. Road Tarikere 577 228 Karnataka PAN NO : AAJFA8296P	Vs.	ITOA Ward-1 Chickmagalur
APPELLANT		RESPONDENT

Appellant by	:	Sri C.R. Vasanth Kumar, A.R.
Respondent by	:	Sri Balusamy N., D.R.

Date of Hearing	:	17.09.2025
Date of Pronouncement	:	15.12.2025

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the orders of the Id. CIT(A)/NFAC dated 12.06.2025 vide DIN & Order No.ITBA/NFAC/S/250/2025-26/1076950409(1) for the assessment year 2017-18 passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”).

- 2.** The assessee has raised the following grounds of appeal:

1. **The learned CIT(A) has erred in upholding the disallowance of exemption under Section 10(26AAB)** to the appellant, which is a statutory body constituted for regulating agricultural marketing in the State of Karnataka, and clearly falls under the ambit of the said provision.
2. **The lower authorities failed to appreciate the legal character of the appellant** and its functional nature, being not engaged in any profit motive, thus eligible for exemption under Section 10(26AAB), which applies to all Market Committees established under State Acts.
3. **The appellant was also duly registered under Section 12AA**, further establishing its bona fide charitable nature of operations. The denial of exemption despite registration is inconsistent with settled judicial precedents.
4. **The disallowance of demonetization cash deposit was arbitrary**, as the appellant had duly explained and substantiated the nature and source of cash deposits from routine mandi operations, consistent with historical financial records.
5. **The principles of natural justice were violated**, as the appellant was not afforded adequate opportunity to justify its claim before making such additions.

PRAYER

The appellant, therefore, respectfully prays that:

- a) The order of the CIT(A) be quashed and
- b) The exemption claimed under Section 10(26AAB) be allowed
- c) The additions made be deleted and the demand be quashed
- d) Any other relief that this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case be granted.

3. Brief facts of the case are that the assessee is an Agricultural Produce Market Committee (in short "APMC") established under the Karnataka Agricultural Produce Market (Regulation) Act, 1966 for regulating the marketing of agricultural produce as notified by Government of Karnataka vide Notification No.MD/35211/RM-2/68-69 dated 15.2.1969. The assessee filed its return of income for the assessment year 2017-18 on 12.9.2017 claiming exemption of income u/s 10(26AAB) of the Act. The return of income was thereafter processed u/s 143(1) of the Act. The case of the assessee was selected for scrutiny under CASS and accordingly notices u/s 143(2) as well as 142(1) of the Act were issued from time to time requiring the assessee to furnish details in electronic mode only. On verification of details furnished, it is seen by the AO that the assessee is also registered u/s 12A of the Act vide F.No. A-

60/12A/CIT/MYS/4-5 dated 6.8.2004 by the Id. Commissioner of Income Tax, Mysore. During the course of assessment proceedings, the AO noticed that as per the statement furnished the gross income is declared at Rs.3,24,21,898/- out of which Rs.1,77,99,088/- is claimed as exempt u/s 10(26AAB) of the Act and the balance of Rs.1,46,30,810/- is claimed as deduction u/s 11 of the Act. On perusal of the details uploaded by the assessee trust, it is also noticed that the trust has claimed accumulation u/s 11(2) of the Act in Form No.10 amounting to Rs.2,81,68,556/- stating that the objective as advancement of any other object of the general public utility. On verification of the same, it is noticed that the Form No.10 is belated as the same was not filed along with return of income within the due date as prescribed u/s 139(1) of the Act. The AO noticed that the assessee trust had not furnished any documents/materials regarding condonation of delay in filing form no.10 nor condonation letter by the Id. CIT(Exemption). Since form no.10 was not filed along with return within the due date specified under the Act, the AO held that assessee trust is not eligible to claim accumulation u/s 11(2) of the Act.

3.1 Further, on verification of the statement filed by the assessee, the AO noticed that the gross income includes interest income, income from deposits and income derived from sale of sites. Thus, it is clear from the above that the assessee trust is engaged in other activities and the income of which does not qualify for exemption u/s 10(26AAB) of the Act. Further upon verification of the assessee trust, details furnished, it is noticed that the trust had incurred expenditure in the course of agricultural produce committee activity and claimed expenditure to the tune of Rs.1,46,30,810/- towards administrative and establishment expenses. The Id. AO held that even though these expenses are not in the nature of charitable activity but considering the fact that they are related to the nature of

activity carried out by APMC, this revenue expenditure incurred had been allowed by the AO.

3.2 Upon further verification, it is noticed that the assessee has not supported its claim for deduction u/s 11 of the Act by furnishing necessary details of any charitable activity carried out by it. Further, the assessee being a registered trust u/s 12A of the Act, the AO held that the assessee is not entitled to claim exemption u/s 10(26AAB) of the Act except claim u/s 10(1) & 10(23C) as per section 11(7) of the Act and accordingly concluded that exemption claimed by the assessee trust u/s 10(26AAB) of the Act is not allowable in view of the specific provisions contained in section 11(7) of the Act.

3.3 Further, during the course of scrutiny proceedings, the AO noticed that assessee had received cash of Rs.7,63,000/- during the period of demonetization in the form of market fee, license fee, etc. and deposited the same into the bank account. However, on verification of bank certificate furnished by assessee, it was noticed that total deposit during the demonetization period was Rs.10,53,287/- out of which demonetized currency is Rs.7,63,000/- only. The AO held that the contention of the assessee that it is the money by way of the market fees, license fees, penalty and service tax which are transacted before the demonetization period was not at all substantiated by the assessee trust. The AO finally added Rs.7,08,500/- received during the period of demonetization and deposited on various dates holding that to be from undisclosed sources and brought to tax as unexplained credit. Consequent to verification of income and expenditure, financial statement and submission of other details furnished by the assessee trust in the course of scrutiny proceedings, the assessment was completed without allowing the benefit of provisions of section 11 & 12 of the Act for the assessment year 2017-18.

3.4 In view of the above discussion, total income of the assessee trust was computed as under based on the material furnished in the manner as applicable to the AOP after disallowing the claim made u/s 11 of the Act and u/s 10(26AAB) of the Act:-

SI NO	Income from activity of the Trust	Amount(in Rs.)	Amount(in Rs.)
1	Gross income as per statement		Rs. 3,24,21,898/-
	Less Interest income from the deposits considered as other income	Rs. 19,68,164/-	
	Sale consideration	Rs. 68,60,700/-	
	Advance money received for site	Rs. 25,38,600/-	Rs. 1,13,67,264/-
	Balance Income available		Rs. 2,10,54,434/-
	Less expenditure as per Income & expenditure Account allowed as per discussion made in the preceding paras of assessment orders.		Rs. 1,46,30,810/-
	The income attributable to marketing activity of the society not exempted as the society is registered as Trust and as per discussion in the scrutiny order above. Hence the same will be subject to taxation in the prevailing circumstances of the nature of activity of the society/Trust.		Rs. 64,23,624/-

Accordingly the Income from marketing activities of the present society is as under:

SI No	Income from the activity of the Trust/society	Amount(in Rs.)
	Income from marketing activity	Rs. 64,23,624/-
	Income from sale of site: Site Sketch Rs. 68,60,700/- Advance money for site Received Rs. 25,38,600/- Total Rs. 93,99,300/- Less site advance received Rs. 5,58,900/- Income from sale of site Rs. 88,40,400/-	Rs. 88,40,400/-
	Income from other sources Interest on deposits Rs. 19,68,168/- Other income of society Rs. 474/- Total income from other Source Rs. 19,68,642/-	Rs. 19,68,642/-
	Total income from the activity of the society	Rs. 1,72,32,666/-
	Add Income u/s 68 r.w.s 115BBE as discussed above in the assessment order	Rs. 7,08,500/-
	Total Income	Rs. 1,79,41,166/- RS. 1,79,41,170/- r/o

	Tax there on at normal rate at Rs. 1,72,32,666/-	
	Tax at special rate u/s 68 r.w.s 115BBE Rs. 7,08,500/-	

4. Aggrieved by the order of ld. AO passed u/s 143(3) of the Act dated 15.12.2019, the assessee preferred an appeal before the ld. CIT(A)/NFAC. The ld. CIT(A)/NFAC dismissed the appeal of the assessee by holding that the appeal has not been presented within the purview of section 249(2) of the Act i.e. failure to mention the information regarding return filed for the assessment year in connection with which appeal is filed and whether an amount of advance tax as per section 249(4)(b) of the Act was paid and accordingly did not admit the appeal for adjudication on merit.

5. Again, aggrieved by the order of ld. CIT(A)/NFAC, the assessee has filed the present appeal before this Tribunal.

6. Before us, the ld. A.R. of the assessee vehemently submitted that the ld. CIT(A)/NFAC erred in law in not admitting the appeal for a technical reason and the assessee is not liable to pay any advance tax since the assessee's income is exempted u/s 10(26AAB) of the Act and also the assessee is a charitable trust and registered u/s 12AB of the Act.

7. Ld. D.R. on the other hand supported the orders of the authorities below.

8. We have heard the rival submissions and perused the materials available on record. It is an undisputed fact that ld. CIT(A)/NFAC dismissed the appeal of the assessee for the technical reasons and did not admit the appeal for adjudication on merit. We are of the considered opinion that for the purpose of payment of advance tax, the assessee shall first estimate his current income. Secondly, the advance tax shall be payable during the financial year where the amount of tax payable is Rs.10,000/- or more and thirdly every person liable to pay advance tax shall on his own agree to pay

on or before each of the due dates specified in section 211 of the Act. In the present case, it is an undisputed fact that the assessee is registered u/s 12AB of the Act by the Id. CIT Mysore. Further, assessee has also claimed exemption u/s 10(26AAB) of the Act being agricultural produce market committee and therefore, the provisions of section 249(4)(b) of the Act will not be applicable to the assessee.

8.1 Further we are of the considered opinion that Section 249(4)(b) of the Act states that the assessee has paid an amount equal to the amount of advance tax, which was payable by him can never in a stretch of imagination be treated as advance tax payable on 90% of the disputed demand. In our opinion, admittedly, the assessee has filed his return of income declaring total income of Rs.Nil and therefore, in our opinion, the question of payment of advance tax does not arise in the case of the assessee. Therefore, we are of the considered opinion that Id. CIT(A)/NFAC grossly erred in invoking the provisions of section 249(4)(b) of the Act and dismissed the appeal on a technical ground.

8.2 Further, the question of filing of an application as per the proviso to section 249(4) of the Act also does not arise as the assessee was not liable to pay any advance tax as the assessee filed return of income of Rs. Nil.

8.3 This being so, with the above observations, we remit the entire issue in dispute to the file of Id. CIT(A)/NFAC for fresh consideration and decide the same on merits of the case in accordance with law after giving reasonable opportunity of being heard to the assessee. It is ordered accordingly.

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

Order pronounced in the open court on 15th Dec, 2025

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 15th Dec, 2025.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.