

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
(THROUGH VIRTUAL HEARING)**

श्री जार्ज माथन, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष ।

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND**

SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं/ITA No. 594/CTK/2025

(निर्धारण वर्ष / Assessment Year : 2017-18)

Hare Krishna Movement Puri M.K. Nanda & CO. Flat 1B, Kusum Residency Plot No:- 66, Saheed Nagar, Bhubaneswar, Khorda-751007	Vs	ITO (Exemption), Bhubaneswar
PAN No. : AAATH 7636 K		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Natabar Panda, AR
राजस्व की ओर से / Revenue by	:	Shri Vijay Singh, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	05/12/2025
घोषणा की तारीख/Date of Pronouncement	:	05/12/2025

आदेश / ORDER

Per Bench :

This is an Appeal filed by the assessee against the order of Ld.ADDL/JCIT(A), Faridabad dated 31.07.2025 for the assessment year 2017-18.

2. It was submitted by the Ld.AR that Form 10B was filed belatedly. It was submission that the said form 10B was available before the AO when the assessment was completed. It was submission that because the form 10B was filed belatedly the exemption of u/s.11 & 12 of the Act had been denied to the assessee. It was submission that the filing of the form 10B was only a technical glitch. It was submission that the delay may be condoned and issue may be restored to the file of the AO after condoning the delay, so that the assessee may be granted the benefit of the exemption

u/s. 11& 12 of the Act. He placed reliance on the decision of the coordinate bench of this tribunal in the case of Jeevan Kalyan Sadhana Kendra in ITA No.73/CTK/2022, dated 02/03/2023 wherein in paras 6 & 7, the coordinate bench of this tribunal has held as follows:-

6. We have considered the rival submissions. A perusal of the decision of the Hon'ble P&H High Court in the case of Shahzedanand Charity Trust(supra) clearly shows that the Hon'ble P&H High Court has categorically held that the audit report u/s.12A(1)(b) of the Act can be filed even at the appellate stage. Thus, clearly, the Hon'ble P&H High Court has held that the filing of the audit report alongwith the return as per provisions of section 12A(1)(b) of the Act is not mandatory. As we are faced with a decision of the Hon'ble High Court on the issue, the decision of the Co-ordinate Bench of this Tribunal would not hold value of precedence. Thus, clearly, it is noticed that the audit has been done within time in the case of the assessee and it is only the audit report which has not been filed within the time prescribed. This is only a venial breach of the provisions. This being so, as also considering the fact that CBDT in its Instruction No.1/1148(supra) has given the powers to the Assessing Officer to condone the delay in filing of the audit report, we are of the view that the impugned assessee should not be denied the benefit of deduction u/s.11 & 12 of the Act on account of the said venial breach in respect of the delay in filing of the audit report. Consequently, the delay in filing of the audit report in Form 10B is condoned and the Assessing Officer is directed to consider the same when computing the income of the assessee.

7. In the result, appeal of the assessee stands allowed.

3. In reply, the Ld.Sr.DR submitted that the assessee should not be granted the benefit, insofar as there is a delay in filing the form 10B. He Vehemently supported the orders of the AO and Ld.CIT(A).

4. We have considered the rival submissions. As it is noticed that the issue is squarely covered by the decision of this coordinate bench of this tribunal in the case of Jeevan Kalyan Sadhana Kendra, referred to supra, respectfully following the decision of the coordinate bench of this tribunal, the delay in filing of 10B is condoned and the AO is directed to consider the same when computing the total income of the assessee. For this purpose,

the issues in this appeal are restored to file of the AO for re-computation of the income of the assessee.

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

Order dictated and pronounced in the open court on 05/12/2025.

Sd/-

(राजेश कुमार)

(RAJESH KUMAR)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

Sd/-

(जार्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य / **JUDICIAL MEMBER**

दिनांक Dated 05/12/2025

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant- Hare Krishna Movement
Puri, M.K. Nanda & CO. Flat 1B, Kusum
Residency Plot No:- 66, Saheed Nagar,
Bhubaneswar, Khorda-751007
2. प्रत्यर्थी / The Respondent- ITO (Exemption),
Bhubaneswar
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT,
Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack