

**IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH MUMBAI**

**BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 4351/Mum/2025
(Assessment Year: 2009-10)**

DCIT Central Circle-8(2) R. No. 658, Aaykar Bhavan, M. K. Road, Mumbai-400 020	Vs.	Jaslok Hospital and Research Centre, G.D. Deshmukh Marg, Mumbai-400 026
(Applicant)		(Respondent)

&

**C.O. No. 220/Mum/2025
(Assessment Year: 2009-10)**

Jaslok Hospital and Research Centre, G.D. Deshmukh Marg, Mumbai-400 026	Vs.	DCIT Central Circle- 8(2) R. No. 658, Aaykar Bhavan, M. K. Road, Mumbai-400 020
PAN/GIR No. AAAAJ0028Q		
(Applicant)		(Respondent)

Assessee by	Shri Madhur Agarwal, Ld. AR
Revenue by	Shri Vivek Perampurna, Ld. DR

Date of Hearing	23.12.2025
Date of Pronouncement	30.12.2025



आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

This appeal has been filed by the Revenue and the Cross Objection has been filed by the assessee, both arising out of the order passed by the Commissioner of Income-tax (Appeals)-50, Mumbai [hereinafter referred to as "CIT(A)"], dated 11.04.2025, passed under section 250 read with section 254 of the Income-tax Act, 1961 [hereinafter referred to as "the Act"], for the assessment year 2009-10.

2. The Revenue is aggrieved by the action of the learned CIT(A) in deleting the additions made by the Assessing Officer and in allowing exemption under section 11 of the Act. The assessee, on the other hand, has filed the cross objection challenging the very validity of the assessment order, contending that the assessment framed under section 143(3) dated 25.06.2012 is barred by limitation and that the special audit report obtained under section 142(2A) of the Act is beyond the time limit prescribed under law. Since the Revenue's appeal and the assessee's cross objection emanate from the same appellate order and involve common issues, they are heard together and are being disposed of by this consolidated order.

3. The brief facts of the case are that the assessee is a public charitable trust registered under section 12A of the Income-tax Act, 1961 and also approved under section 80G. It is engaged in



running a charitable hospital. For the assessment year under consideration, the assessee filed its original return of income on 30.09.2009 and thereafter filed a revised return on 30.03.2010, declaring nil total income after claiming exemption under section 11 of the Act.

4. The case was selected for scrutiny and notice under section 143(2) was issued. During the course of assessment proceedings, the Assessing Officer observed that the assessee had applied less than the prescribed percentage of its receipts towards charitable purposes and also noted that the assessee's application for approval under section 10(23C)(via) for an earlier assessment year had been rejected by the Chief Commissioner of Income-tax. The Assessing Officer was of the view that the assessee was not carrying on charitable activities within the meaning of section 2(15) of the Act.

5. Considering the alleged complexity of accounts, the Assessing Officer issued a show cause notice dated 19.12.2011 proposing reference to special audit under section 142(2A) of the Act. After obtaining approval from the Director of Income-tax (Exemption), Mumbai, vide letter dated 28.12.2011, the accounts of the assessee were referred to special audit and M/s Ray & Ray, Chartered Accountants were appointed as special auditors vide letter dated 29.12.2011, requiring submission of audit report



within 60 days. The special audit report was ultimately submitted on 03.05.2012.

6. In the assessment order, the Assessing Officer denied exemption under section 11 of the Act, primarily on the following grounds:

- That the assessee was not carrying out charitable activities in accordance with section 2(15);
- That rejection of approval under section 10(23C)(via) in earlier years disentitled the assessee from exemption under section 11;
- That there were serious discrepancies in billing and accounting as pointed out in the special audit report.

7. The Assessing Officer further made the following additions:

- Addition of Rs. 8,91,34,131/- on account of alleged short booking of income, being the difference between income as per invoices raised on in-patients and income recorded in the books of account.
- Addition of Rs. 16,14,755/- on account of mismatch between income as per billing system and income as per books of account.

Accordingly, the total income of the assessee was assessed at Rs. 23,11,35,232/-.

8. Aggrieved, the assessee filed an appeal before the learned CIT(A). The appeal was initially decided against the assessee vide order dated 07.04.2014, confirming the assessment. On further



appeal, the Co-ordinate Bench, vide order dated 16.10.2015 in ITA No. 4803/Mum/2014, set aside the order of the CIT(A) and restored the matter for fresh adjudication with a specific direction to adjudicate first the additional ground relating to limitation and thereafter the other grounds on merits, after providing adequate opportunity of being heard.

9. Pursuant to the directions of the Co-ordinate Bench, the learned CIT(A) initiated fresh appellate proceedings and issued notices under section 250 of the Act. Before the learned CIT(A), the assessee raised an additional ground contending that

- The special audit report submitted on 03.05.2012 was beyond the time limit prescribed under section 142(2A);
- Consequently, the assessment order dated 25.06.2012 was barred by limitation and liable to be quashed.

10. A remand report was called for from the Assessing Officer, who submitted that the assessee itself had sought extension of time for furnishing replies to the draft audit report and, therefore, the extension of time up to 30.04.2012 was validly granted. It was further contended that the assessment order passed on 25.06.2012 was within the limitation period.

11. After examining the correspondence, including the letter of the Assessing Officer dated 13.06.2012, the learned CIT(A) held that the Assessing Officer had validly extended the time for special audit and that the assessment order was passed within



the prescribed limitation. Accordingly, the additional ground was rejected.

12. On merits, the learned CIT(A) examined the reconciliation furnished by the assessee and the observations of the special auditors.

13. In respect of the addition of Rs. 8,91,34,131/-, the learned CIT(A) recorded a finding that the difference arose mainly on account of concessions granted to indigent and weaker section patients, staff and doctors, in respect of whom bills were generated in the hospital billing system but no recovery was intended. It was further noted that the assessee had not claimed any corresponding expenditure in respect of such concessional treatment. Holding that such amounts did not represent real income of the assessee, the learned CIT(A) deleted the addition.

14. In respect of the addition of Rs. 16,14,755/-, the learned CIT(A) observed that the income as per books of account was higher than the income as per billing system and, therefore, no addition was warranted. The addition was accordingly deleted.

15. The learned CIT(A) also examined the denial of exemption under section **11**. It was noted that the registration of the assessee under section 12A had not been cancelled; the assessee had complied with the scheme framed by the Hon'ble Bombay High Court regarding reservation of beds for indigent and weaker section patients; the assessee had spent more than 2 percent of



its gross receipts on indigent and weaker section patients and no violation of section 13(3) was established. On the above factual findings, the learned CIT(A) allowed the claim of exemption under section 11.

16. Aggrieved by the order of the learned CIT(A), the Revenue is in appeal before us raising following grounds of appeal:

1. *Whether on the facts and in the circumstances of the case, the Ld. CIT(A) erred in law and on facts in deleting the addition of Rs. 8,91,34,131/- despite the assessee's failure to furnish verifiable and consistent reconciliation of the discrepancy between the income as per the books of accounts and income as per the billing system, as pointed out in the special audit report?*
2. *Whether the Ld. CIT(A) was justified in accepting the assessee's unsubstantiated claim that the difference in income represents concessions to indigent patients, staff, and doctors, without corroborating documentary evidence or a consistent accounting policy, and without adhering to the principles laid down under the Income Tax Act, 1961?*
3. *Whether the Ld. CIT(A) erred in deleting the addition of Rs. 16,14,755/- without appreciating that the discrepancy between the books of accounts and the billing system was neither satisfactorily explained nor supported by reconciled records, thereby affecting the completeness and reliability of the assessee's accounts?*
4. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in allowing the exemption claimed by the assessee trust under Section 11 of the Income Tax Act, 1961, without appreciating that the assessee had failed to fulfill the mandatory conditions for claiming such exemption as laid down under the Act.*
5. *The Ld. CIT(A) erred in law and on facts in holding that mere registration of the assessee trust under Section 12A of the Income Tax Act automatically entitles the assessee to exemption under Sections 11 and 12, without independently verifying the genuineness of the activities carried out during the relevant assessment year.*
6. *Whether the CIT(A) was correct in law in deleting the above additions, ignoring the findings of the special audit and the Assessing Officer's observations on unaccounted income and*



unverifiable claims, thereby allowing unverified income to escape assessment?

7. *Whether the CIT(A) failed to discharge the burden cast upon the assessee to explain material discrepancies in their financial statements as mandated under the provisions of the Income Tax Act, 1961?*
8. *The appellant craves leave to add, alter, amend, or withdraw any of the above grounds of appeal at the time of hearing.*

17. The assessee has filed a cross objection, raising following jurisdictional grounds:

1. *On the facts and in the circumstance of the case and in law, the Assessment Order dated 25.06.2012 passed under section 143(3) of the Income-tax Act, 1961 ("the Act") is bad in law and liable to quashed, as it is barred by limitation.*
2. *On the facts and in the circumstance of the case and in law, the special audit report as per section 142(2A) of the Act submitted by the Special Auditor on 03.05.2012 is beyond the time limit prescribed under the Act and, hence, is not legally sustainable. Consequently, the assessment based on such an invalid audit report is also vitiated in law.*
3. *The appellant craves leave to add, alter, amend or delete any of the above referred grounds of appeal.*

18. During the course of hearing before us, the learned Authorized Representative (AR) appearing on behalf of the assessee submitted that the cross objection filed by the assessee raises a purely jurisdictional issue going to the very root of the assessment. It was contended that if the grounds raised in the cross objection are accepted, the assessment itself would stand vitiated and, consequently, there would be no necessity to adjudicate the grounds raised by the Revenue on merits.



19. In support of the above contention, the learned AR placed on record a detailed chronology of events, marked as Annexure A, and walked us through the same by drawing specific attention to the relevant dates, including the date of appointment of special auditors, the original time limit for submission of the special audit report, the correspondence exchanged between the Assessing Officer, the special auditors and the assessee, the objections raised by the assessee to the extension sought by the special auditors, the date of alleged extension granted by the Assessing Officer, the date on which the draft audit report was forwarded, the date on which the final special audit report was submitted, and finally the date of passing of the assessment order.

20. The learned AR emphasized, with reference to the chronology, that the initial statutory time limit for submission of the special audit report expired on 27.02.2012 / 28.02.2012, that the assessee had objected to the extension sought by the special auditors, and that the subsequent extension was not validly or lawfully communicated. It was further submitted that the special audit report was ultimately furnished only on 03.05.2012, which, according to the assessee, was beyond the permissible period, rendering the special audit report invalid and, consequently, the assessment order passed on 25.06.2012 barred by limitation.



21. The learned AR further placed reliance on the statutory provisions governing limitation as contained in section 153(1) read with section 153(4) and the Explanation thereto, as applicable to assessment year 2009–10. The learned AR, while referring to the detailed chronology placed on record as *Annexure A*, submitted that the computation of limitation has to be strictly governed by section 153(1) read with Explanation (iii) and (ix) as applicable to assessment year 2009–10. It was submitted that the appointment of special auditors was communicated to the assessee on 29.12.2011, and, accordingly, the initial statutory period of sixty days for furnishing the special audit report expired on 27.02.2012 / 28.02.2012.

22. It was further pointed out that, on the request of the special auditors, the Assessing Officer granted an extension of 45 days, extending the due date for furnishing the special audit report up to 15.04.2012, which extension was admittedly communicated to the assessee. The learned AR emphasized that the assessee had objected to any further extension sought by the special auditors and had never made any request for extension of time for completion of the special audit. According to the learned AR, any correspondence by the assessee dated 13.04.2012 was only to convey its inability to furnish comments on the draft audit report within a short time and could not be construed as a request for extension of time for completion of special audit.



23. It was submitted that, in terms of Explanation (iii) and (ix) to section 153, only the period up to 15.04.2012, being the date on which the assessee was required to furnish the audit report pursuant to the extension validly granted and communicated, could be excluded. The learned AR submitted that the alleged further extension up to 30.04.2012, not validly or contemporaneously communicated, cannot be reckoned for exclusion under section 153. On this basis, it was contended that the Assessing Officer was required to complete the assessment within sixty days from 14.04.2012, and therefore the assessment order passed on 25.06.2012 was barred by limitation.

24. The learned AR further referred to the letter dated 28.03.2012 issued by the Assessing Officer, captioned as continuation of special audit under section 142(2A), wherein it was stated that the further time limit of 45 days starting from 01.03.2012 with retrospective effect till 15.04.2012 was being granted. The learned AR submitted that this letter itself records that the extension was granted with retrospective effect, which, according to him, is unknown to law. It was contended that the statute contemplates a clear direction fixing the period within which the audit report is required to be furnished, and any extension of such period must operate prospectively and within the framework of section 142(2A) read with section 153. The learned AR submitted that neither section 142(2A) nor Explanation (iii) or (ix) to section 153 permits the Assessing



Officer to grant or validate an extension retrospectively, particularly after the earlier period had already expired. It was contended that such retrospective extension, even if recorded in official correspondence, cannot enlarge the period of exclusion contemplated under section 153 and cannot cure the limitation defect.

25. The learned AR further placed reliance on the decision of the Visakhapatnam Bench of the Tribunal in ACIT v. Nexus Feeds Limited & Ors. (ITA Nos. 86 to 92 & 94/Viz/2021, order dated 23.01.2023) and specifically drew our attention to paragraphs 6 and 7 thereof. It was submitted that the said decision squarely governs the controversy before us, inasmuch as it lays down the legal principle that any extension of time for completion of special audit must be granted strictly in accordance with law and within the subsisting period of limitation, failing which the consequential assessment would be rendered void ab initio.

26. The learned AR further placed reliance on the judgment of the Hon'ble Supreme Court in the case of Shreyans Industries Ltd. v. Union of India (MANU/SC/0270/2016). He submitted that although the said judgment arose in the context of limitation for completion of assessment, the ratio laid down by the Hon'ble Supreme Court is of general application to statutory time limits governing assessment proceedings. It was contended that the Hon'ble Supreme Court has unequivocally held that once the



prescribed period of limitation expires, the authority is divested of jurisdiction to proceed further, and such limitation cannot be extended or revived by administrative or ex post facto actions. The learned AR submitted that this very principle has been applied by the co-ordinate Bench in the decision in Nexus Feeds Limited relied upon earlier, while dealing with limitation in the context of special audit under section 142(2A). According to the learned AR, the combined reading of the judgment of the Hon'ble Supreme Court and the co-ordinate Bench decision clearly supports the assessee's contention that retrospective or belated extension of time for special audit is impermissible in law, and any assessment framed on the basis of such invalid extension is barred by limitation.

27. The learned Departmental Representative supported the order of the learned CIT(A) and submitted that the issue of limitation has been correctly examined and decided by him. He drew our attention to paragraphs 10, 11 and 12 of the CIT(A)'s order and submitted that the learned CIT(A) has rightly held that the Assessing Officer had granted extension of time for completion of special audit from 15.04.2012 to 30.04.2012. It was submitted that, as clarified by the Assessing Officer vide letter dated 13.06.2012, the assessee's letter dated 13.04.2012 seeking time for furnishing comments on the draft audit report was treated as a request for extension and, accordingly, further time was granted. The learned DR submitted that, as the



assessment order under section 143(3) was passed on 25.06.2012, i.e. before 28.06.2012, it was within the period of limitation.

28. We have carefully considered the rival submissions, perused the material available on record, examined the detailed chronology placed before us as *Annexure A*, and given our thoughtful consideration to the statutory provisions governing limitation under the Act as applicable to assessment year 2009–10.

29. At the outset, it is undisputed that the assessee's cross objection raises a purely jurisdictional issue, namely, whether the assessment order passed under section 143(3) on 25.06.2012 is barred by limitation. It is equally well settled that such a jurisdictional objection, if found to be valid, goes to the very root of the assessment and must be adjudicated as a threshold issue, even if it renders the adjudication of the Revenue's appeal on merits academic.

30. For the assessment year under consideration, the time limit for completion of assessment is governed by section 153(1), subject to exclusions permitted under the Explanation to section 153. In cases where a reference is made for special audit under section 142(2A), the exclusion of time is specifically governed by Explanation (iii) and Explanation (ix). Both these clauses permit exclusion of only that period which commences from the date on



which the Assessing Officer directs the assessee to get the accounts audited and ends on the date on which the assessee is required to furnish the audit report.

31. Thus, the statute does not contemplate an open-ended or elastic exclusion of time. The exclusion is date-specific, direction-specific, and statutorily confined.

32. From the admitted facts and chronology placed on record, the following position emerges:

- the assessee was intimated about the appointment of special auditors on 29.12.2011;
- consequently, the initial statutory period of sixty days for submission of the special audit report expired on 26.02.2012;
- the special audit report was ultimately submitted on 03.05.2012.

33. The Revenue has sought to rely upon an extension of 45 days, allegedly granted by the Assessing Officer extending the due date up to 15.04.2012, and further upon an alleged continuation thereafter. However, on a careful examination of the contemporaneous record and the statutory scheme, we find that even the first extension cannot be treated as valid for the purpose of exclusion under section 153, for the following reasons.

34. Firstly, the request for extension emanated from the Special Auditor and not from the assessee. The assessee, on the contrary, had objected to the extension sought by the Special Auditor and



had placed its objections on record. The statute does not contemplate extension of the audit period merely on the request of the auditor, particularly in the face of express objection by the assessee.

35. Secondly, the letter dated 28.03.2012 issued by the Assessing Officer itself records that the extension was being granted with retrospective effect from 01.03.2012. Neither section 142(2A) nor Explanation (iii) or (ix) to section 153 permits the Assessing Officer to grant an extension retrospectively, i.e. after the original statutory period has already expired. Any such retrospective enlargement of time is unknown to law and cannot be recognised for the purpose of computing limitation.

36. Thirdly, the statutory expression used in Explanation (iii) and (ix) is the date on which the assessee is “required to furnish” the audit report. Such requirement must flow from a valid and prospective statutory direction. A retrospective communication cannot create a legal obligation for the past, nor can it enlarge the period of exclusion contemplated by the statute.

37. In this view of the matter, the only legally sustainable position is that the exclusion under Explanation (iii) and (ix) to section 153 ended with the expiry of the original statutory period of sixty days, i.e. on 26.02.2012.

38. Once the exclusion stood exhausted on 26.02.2012, the Assessing Officer was required to complete the assessment within



the balance period available under section 153(1). Even on the most liberal computation, the assessment ought to have been completed well before 25.06.2012. The assessment order having been passed on 25.06.2012, is thus clearly beyond the permissible period of limitation.

39. This conclusion is fully supported by the decision of the Co-ordinate Bench in ACIT v. Nexus Feeds Limited (supra), wherein it has been categorically held that any extension of time for completion of special audit must be granted within the subsisting statutory period, and that an extension sought or granted after expiry of such period is legally ineffective. The Co-ordinate Bench, relying upon the judgment of the Hon'ble Supreme Court in Shreyans Industries Ltd. v. Union of India (MANU/SC/0270/2016), further held that once the period of limitation expires, a valuable right accrues in favour of the assessee and the authority is divested of jurisdiction to proceed further. For the sake of clarity, the relevant paras from the order of Co-ordinate Bench are reproduced hereunder –

6. At the outset, the Ld. AR submitted that the Special Audit was ordered by the Ld. Principal Commissioner of Income Tax(Central), Visakhapatnam on 27/12/2018. The Ld. AR submitted that the Special Auditor was directed to submit his report within a period of 90 days i.e., on or before 27/3/2019. Further, the Ld.AR submitted that the Special Auditor sought extension of time limit and the Ld. AO vide letter dated 27/3/2019 merely communicated the permission of the Ld. Pr. CIT (Central), Visakhapatnam allowing of extension of time limit for 60 days which is expiring on 25/5/2019. The Ld. AR further submitted that the Special Auditor requested another extension of time limit by 30 days on 27/5/2019 i.e., after the date of expiry of the original limitation period.



The Ld. AR submitted that the Ld. AO issued the order U/s. 142(2A) of the Act instead of passing the order U/s. 142(2C) of the Act. The Ld. AR further also submitted that the Ld. AO merely conveyed the permission accorded by the Ld. Pr. CIT (Central), Visakhapatnam but has not passed any order U/s. 142(2C) of the Act. The Ld. AR argued that the Special Auditor submitted its report to the Ld. AO which was undated. The Ld. AO on 12/7/2019 communicated the receipt of Special Audit Report to the assessee. The Ld. AR further submitted that since the report of the Special Auditor is submitted beyond the period of 180 days as specified U/s. 142(2A) of the Act, it is none stand the assessment order passed based on the Special Audit Report is void-ab-initio. The Ld. AR relied on the Coordinate Bench of Delhi in ACIT Vs Soul Space projects Limited [2020] 117Taxmann.com 395 (Delhi) (Trib.). The Ld. AR also relied on the judgment of the Hon'ble Supreme Court in the case of State of Punjab & Ors vs. M/s. Shreyans Indus Ltd in Civil Appeal Nos. 2506 to 2511 of 2016 arising out of SLP Nos. 21712 – 21717 of 2009. Per contra, the Ld. DR relied on the Explanation to section 153B of the Act. The Ld. DR further relied on the order of the Ld. AO.

7. We have heard both the sides and perused the material available on record. As per section 142(2A) of the Act, the Special Auditor is expected to provide his Special Audit Report within a period of 180 days. With respect to Ground No.1 & 2 regarding the time limit prescribed U/s.142(2A) for submission of Special Audit Report, we find that the Special Auditor has sought first extension on 26/03/2019 for another 90 days. However, the Ld. Assessing Officer on 27th March, 2019 has merely communicated the permission accorded to him by the Ld. Pr. CIT(Central), Visakhapatnam for extension of time limit by another 60 days which will expire on 25/5/2019. Further, another extension was applied by the Special Auditor on 27/5/2019. The Ld. AO once again has not applied his mind in giving the extension as provided U/s. 142(2C) of the Act but has once again merely communicated the permission accorded to him by the Ld. Pr. CIT (Central), Visakhapatnam. Even though it is not required to obtain the permission from the Ld. Pr. CIT under the provisions of the Act, since the permission to grant extension time for the purpose of Special Audit Report are vested with the Ld. AO and accordingly the Ld. AO is mandated to pass an order U/s. 142(2C) of the Act with respect to the extension of time limit sought by the Special Auditor. In the instant case, the Ld. AO failed to pass such order in both the circumstances to extend the time limit. The Ld. AO merely communicated the decision of the Ld. Pr. CIT (Central), Visakhapatnam on 6/6/2019 which is beyond the limitation period of the second extended time. Even assuming a moment that it is a valid extension, we find that the extension as per the Limitation Act should have been granted before the expiry of the time limit permitted in the



earlier extension ie., on 25/5/2019. We find force in the arguments of the Ld.AR that mere communication of extension by the Ld. AO instead of passing an order U/s. 142(2C) is not valid in law. The case law relied on by the Ld. AR, the judgment of the Hon'ble Supreme Court in the case of State of Punjab & Ors vs. M/s. Shreyans Indus Ltd in Civil Appeal Nos.2506 to 2511 of 2016 arising out of SLP (C) Nos. 21712 – 21717 of 2009 is pertinent to mention here with respect to grant /order of extension of time limit should be given before the time for passing any order expires as prescribed under the Act or before the expiry of the original period of limitation prescribed in the original order. On this issue, the Hon'ble Apex Court observed that once the period of limitation expires, the immunity against being subject to assessment sets in and the right to make assessment gets extinguished. The Hon'ble Supreme Court further observed that "there would no question of extending the time for assessment when the assessment has already become time barred. A valuable right has also accrued in favour of the assessee when the period of limitation expires. If the Commissioner is permitted to grant the extension even after the expiry of original period of limitation prescribed under the Act, it will give him right to exercise such a power at any time even much after the last of assessment.....when the last date of assessment in respect of these assessment years expire, it vested a valuable right in the assessee which cannot be lightly taken away.....". .

Therefore, in our considered opinion, the ratio laid down by the Hon'ble Supreme Court squarely applies to the instant case also. In the instant case on hand, the Ld. AO ought to have pass an order U/s. 142(2C) of the Act on or before 25/5/2019 ie., expiry of the first extension.

40. Applying the aforesaid statutory framework and judicial principles to the facts of the present case, we hold that the assessment order passed under section 143(3) on 25.06.2012 is barred by limitation and is therefore void ab initio.

41. The finding of the learned CIT(A) that the assessment was required to be completed by 28.06.2012, based on alleged further extension up to 30.04.2012, cannot be sustained in law, as such extension lacks statutory sanction.



42. Without prejudice to the above and even assuming for the sake of argument that the first extension of 45 days extending the time for submission of the special audit report up to 15.04.2012 was validly granted, we find that no further extension beyond the said date can be recognised in law. Under Explanation (iii) and (ix) to section 153, the period of exclusion ends on the date on which the assessee is required to furnish the audit report. The record does not evidence any valid, prospective and statutorily sanctioned extension fixing a later date. Any attempt to treat subsequent correspondence or clarification as extending the period beyond 15.04.2012 amounts to retrospective enlargement of time, which is impermissible under the Act.

43. Accordingly, even on this alternative footing, the exclusion under section 153 stood exhausted on 15.04.2012, and the Assessing Officer was required to complete the assessment within sixty days thereafter, i.e. on or before 14.06.2012. The assessment order having been passed on 25.06.2012 is, therefore, barred by limitation and unsustainable in law even on the most liberal interpretation favourable to the Revenue.

44. In view of the foregoing discussion, we hold that the assessment order passed under section 143(3) on 25.06.2012 is barred by limitation and is therefore void ab initio. The cross objection filed by the assessee is accordingly allowed.



45. Since the assessment itself is held to be invalid on the ground of limitation, the grounds raised by the Revenue on merits do not survive for adjudication and are rendered academic.

46. In the result, the cross objection filed by the assessee is allowed, and the assessment order dated 25.06.2012 passed under section 143(3) is quashed as barred by limitation; consequently, the appeal filed by the Revenue is dismissed as infructuous.

47. Order pronounced in the open court on 30.12.2025.

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, Dated 30/12/2025
Dhananjay, Sr.PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai