

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI BENCH, MUMBAI
BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
ITA No. 6707/MUM/2025 (AY: 2019-20)**

Cosmopolitan Education Society D.N. Nagar, Cosmopolitan Education Society Road, Andheri(W), Mumbai-400053.	vs.	Assistant Commissioner of Income Tax, Exemption Circle -1, Room No. 607, 6 th Floor, Cumballa Hill MTNL Building, Peddar Road, Cumballa Hill, Mumbai-400026
PAN/GIR No: AAATC1726		
(Appellant)		(Respondent)

Appellant by	Shri Kumar Kale
Respondent by	Shri Virabhadra Mahajan, Sr. DR
Date of Hearing	11.12.2025
Date of Pronouncement	01.01.2026

R D E R

PER BIJAYANANDA PRUSETH, AM:

This appeal filed by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the learned Commissioner of Income-Tax, National Faceless Appeal Centre [in short, 'CIT(A), NFAC'], Delhi, dated 29.08.2025 for the assessment year 2019-20.

2. The grounds of appeal raised by the assessee are as under:

"Being aggrieved by the order dated 29.08.2025 passed by the learned Addl/Jt Commissioner of Income Tax (Appeals)-3, Kolkata "Ld. FAA" u/s 250 of the Income-tax Act, 1961 ("Act"), your appellant prefers this appeal, among others, on the following grounds of appeal, each of which is without prejudice to, and independent of, the other:

1. On the facts and in the circumstances of the case, and in law, the Ld. FAA erred in upholding the adjustment of Rs. 19,19,54,063/ made by the Ld. AO u/s 143(1)(a) to the appellant's returned income, denying exemption u/s. 11 of the Act claimed by the appellant. The Ld. AO failed to appreciate, and ought to have held, that the provisions of filing Form 10B are directory in nature; and insofar as Form 10B was available before the Ld. AO before completion of the assessment, exemption u/s.11 could not be denied. The Ld. FAA also failed to appreciate that rejection by the Ld. CIT(E), Mumbai, of the appellant's application for condonation of delay in filing Form 10B had no bearing on the appeal before the Ld. FAA. Your appellant, therefore, prays that exemption u/s. 11 be allowed as claimed in its return of income.

2. Your appellant craves leave to alter, modify, amend or delete the above ground of appeal, or to add one or more new ground(s), as may be necessary."

3. In the instant case, the assessee has declared total income at Rs. Nil after claiming exemption of Rs. 19,19,54,063 u/s. 11 of the Act by filing its return of income on 26.10.2019. The Assistant Director of Income-Tax, CPC, Bangalore vide intimation/order dated 24.07.2020, disallowed the deduction claimed u/s. 11 of the Act on the ground that the assessee has not e-filed the audit report in Form no. 10B on or before filing of the return of income which is mandatory. The assessee being aggrieved preferred first appeal before the CIT(A). It also filed an application for condonation of delay before the CIT(E). The CIT(E) rejected the application filed by the assessee for condonation of delay for 133 days u/s. 119(2)(b) of the Act vide order dated 26.03.2025. The assessee challenged the said order before the Hon'ble High Court. However, in the meantime, the Id. CIT(A) decided the appeal against the said intimation order, vide impugned order, which is under challenged before the Tribunal. He dismissed the appeal because

the delay was not condoned by CIT(E). The assessee challenged the refusal of CIT(E) to condone the delay before the Hon'ble High Court. The Hon'ble High Court vide order dated 13.10.2025 not only quashed the said order dated 26.03.2025 passed by the CIT(E) u/s. 119(2)(b) referred to above but also condoned the delay of 133 days. These facts are not in denial.

4. In aforesaid facts and peculiar circumstances of the case, since the delay in filing the audit report in Form no. 10B by 133 days has already been condoned by the Hon'ble High Court, therefore, we direct the AO to verify the claim of exemption u/s. 11 of the Act of the assessee and allow the same in accordance with law. Thus, the appeal of the assessee is allowed for statistical purposes in terms of the said directions.

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

Order is pronounced on open court 01.01.2026

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

Sd/-
(BIJYANANDA PRUSETH)
ACCOUNTANT MEMBER

Anandi.Nambi(Steno)
MUMBAI

Date: 01.01.2026

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order

Assistant Registrar
ITAT, MUMBAI