

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 1697/Ahd/2025

(निर्धारण वर्ष / Assessment Year : 2017-18)

Parantap Charitable Trust 421, Vraj Siddhi Tower, Khanderao Market Char Rasta, Rajmahal Road, Vadodara - 390001	बनाम / Vs.	Income Tax Officer Ward – Exemption, Vadodara
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACTP0976E		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Rushin Patel, AR
प्रत्यर्थी की ओर से/Respondent by :	Smt. Mamta Singh, Sr. DR

Date of Hearing	07/01/2026
Date of Pronouncement	08/01/2026

ORDER

The present appeal has been filed by the Assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (hereinafter referred to as “NFAC”), Delhi (hereinafter referred to as “CIT(A)”) dated 15.06.2024 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) and relates to Assessment Year (A.Y.) 2017-18.

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

- “1. The ld. CIT(Appeals) has erred in law and on facts of the case, in confining the direction Circular No.10/2019 in taking cognizance of Form 10B for the purpose of exemption u/s 11.
2. The appellant craves leave to add, amend or alter the grounds of appeal at the time of hearing. if need arise.”

3. The appeal is noted to be delayed in filing by 368 days. The assessee has filed an application seeking condonation of delay stating that there was no default on the part of the assessee and the reason for the delay was that the assessee followed due remedy available to it in law but due to the fact that events turned in such a manner which lead to the assessee mis-understanding the order passed by the Ld. CIT(A), as having allowed relief to the assessee that therefore no appeal was immediately filed against the said order. That it was only when the AO passed an appeal effect order giving effect to the order passed by the Ld. CIT(A) and denying the benefit granted to the assessee earlier that the assessee became aware of the order being passed by the Ld. CIT(A) being adversely too and accordingly, filed the appeal before us with the delay of 368 days. The affidavit filed by the assessee contained the chain of events so leading to the delay and are duly supported by the necessary documents referred to therein. The contents of the affidavit are reproduced hereunder:

“I, Nilam Kamleshbhal Patel, aged 51 years, residing at D-13, Anil park 2, B/h Bright School, Korelibaug, Vadodara solemnly affirm and state on oath as follows to explain the delay of 368 days in filing the appeal to the Hon'ble Income Tax Appellate Tribunal (ITAT) in case of Parantap Charitable Trust.

2. *The chain of events in the case of Parantap Charitable Trust for A.Y. 2017-18 is as follows:*

<i>Date</i>	<i>Event</i>	<i>Page</i>
<i>30.03.2018</i>	<i>Assessee got its books audited and filed ITR u/s 139(4), however, Form 10B was not filed electronically.</i>	<i>Pg-/Para-6.1 of CIT(A) order</i>
<i>09.03.2019</i>	<i>CPC issued Intimation Order u/s 143(1) denying exemption u/s 11 for want of Form 10B.</i>	<i>Appeal Papers</i>
<i>26.03.2019</i>	<i>Assessee filed Form 10B and followed by rectification request u/s 154.</i>	<i>Pg-6 to 8 hereafter</i>

07.06.2019	CPC rejected rectification u/s 154.	Appeal Papers
17.07.2019	Assessee filed appeal before Id. CIT(A) against the rectification order dated 07.06.2019.	Form 35
24.07.2019	Assessee also filed rectification request u/s 154 again.	Pg-9 hereafter
06.08.2019	CPC allowed exemption u/s 11 in rectification order u/s 154.	Pg-9 to 19 hereafter
15.06.2024	CIT(A) partly allowed the appeal with specific direction to verify whether delay in filing Form 10B stands condoned as per the CBDT Circular No. 10/2019 dated 22.05.2019, which condones delay in filing Form 10B for A.Y. 2017-18 if it is filed before the date specified u/s 139.	Pg-5 & 6/Para-6.3 & 6.4 of CIT(A) order
11.07.2024	Ld. AO passed effect giving order to CIT(A) order and reversed the benefit granted in rectification order dated 06.08.2019 in view of the fact that Form 10B was filed beyond the due date u/s 139.	Pg-20 & 21 hereafter
09.06.2025	Ld. AO uploads the effect giving order on the Income tax portal.	Pg-22 hereafter
03.09.2025	Assessee filed appeal before the Hon'ble ITAT.	Appeal Papers

3. Since the exemption u/s 11 was granted by way of rectification u/s 154 on 06.08.2019 and since the Id. CIT(A) has also held furnishing of Form 10B as procedural requirement which can be complied even during the assessment proceeding or rectification proceeding, we were under bonafide belief that, the exemption already granted had been sustained. It is when the order dated 11.07.2024 giving effect to the CIT(A) order was uploaded by the Id. AO on the income tax portal on 09.06.2025, we came to know that, the exemption granted has been reversed and the demand raised in Intimation Order u/s 143(1) has been revived. On coming to know of it, we consulted our chartered accountant and filed appeal before the Hon'ble ITAT.

4. It is also pertinent to note that, the appeal is filed within approximately two months from the end of the month in which the effect giving order was uploaded on the income tax portal by the Id. AO.

5. It is because of the above mentioned facts and circumstances, that, the delay in filing appeal before the Hon'ble ITAT has taken place. It may kindly be appreciated that, there was no mala fide intention in delaying the filing of appeal and the lapse has occurred because of bona fide reasons as have been stated herein above.

6. In view of the above facts and circumstances, it is most humbly prayed that, the delay may kindly be condoned to further the cause

the substantial justice and the appeal may kindly be adjudicated on the merits of the case.

7. I say that whatever I have stated above is true to the best of my knowledge, information and belief and I believe the same to be true.”

4. Ld. DR though did not deny the fact of the chain of events as outlined by the assessee in its affidavit, however, she stated that merely because the assessee mis-read the Ld.CIT(A)'s order, the same could not be construed as a sufficient cause for condoning the delay in filing of the present appeal. She vehemently objected to the condonation of delay.

5. I have heard both the parties and have carefully considered the explanation of the assessee leading to the delay in filing of the present appeal. As per the said explanation, the assessee had not filed Form-10B alongwith its return of income filed u/s.139(4) of the Act. The Central Processing Centre (CPC) issued an intimation u/s.143(1)(a) of the Act denying the assessee of exemption claimed u/s.11 of the Act for want of Form 10B. The assessee subsequently filed Form 10B and followed it with a rectification request u/s.154 of the Act. The CPC rejected the said request. The assessee filed an appeal before the Ld. CIT(A) against the said rectification order. In the meanwhile, the assessee filed another rectification request u/s.154 of the Act, which was allowed by the CPC. However, subsequently, the Ld. CIT(A) passed order stating that though subsequent filing of Form 10B to the CPC was sufficient compliance, however, the delay in filing of 10B needs to be condoned as per CBDT Circular No.10/2019 dated 22.05.2019. He directed the AO to verify whether the assessee had complied with the conditions laid down

by the CBDT in the said circular for condoning the delay and accordingly consider the claim of the assessee to exemption of its income.

6. The Ld. Counsel for the assessee has pleaded that since the CPC had already allowed its claim of exemption in the second rectification application filed and even the Ld. CIT(A) had held in his order that the filing of Form 10B was only a procedural requirement and directory in nature and the assessee was entitled to claim exemption, the assessee believed that the Ld. CIT(A) had ruled in its favour.

7. I see no reason to disagree with the assessee. There is no denying the facts as aforesaid by the assessee. With the CPC allowing assessee's claim of exemption and the Ld.CIT(A) also categorically stating so, it is not in any way unreasonable to believe that the assessee's appeal was allowed by the Ld.CIT(A). I completely agree with the assessee's belief to be a reasonable belief. The assessee, I agree with the Ld.Counsel for the assessee, did not therefore file an appeal against the order of the Ld.CIT(A) harboring a reasonable belief of the order passed being in its favor.

8. It is reasonable also therefore for the assessee to have realized that the appellate order needed to be agitated against only when the AO passed the appeal effect order denying the assessee's claim of exemption, which resulted in a delay of 368 days in the filing of the present appeal.

9. With none of the facts stated by the assessee being disputed by the Revenue, I find merit in the explanation furnished by the assessee for the delay in filing of the present appeal. Noting sufficient cause to have been adduced by the assessee for the delay in filing of the present appeal, I accordingly condone the delay of 368 days in the filing of the present appeal.

10. Proceeding to adjudicate the issue before me, as noted above, the issue relates to denial of claim of exemption u/s.11 of the Act for the reason that Form 10B was filed belatedly by the assessee. The Ld. CIT(A), as noted above, has admitted to the position of law in this regard that this requirement of filing Form 10B was merely directory in nature and if the audit report was filed at any stage before the completion of assessment it was sufficient compliance with the requirement in law. He has noted as a matter of fact that in the present case the audit report was available before the AO at the time of passing of the rectification order u/s.154 of the Act and he further specifically noted that in these facts the AO could not have ignored the audit report in Form 10B which had been belatedly furnished. His categorical findings in this regard are contained at para 6.2 of the order as under:

“6.2 It is a settled position of law that the requirement of furnishing the Audit Report under section 12A (b) is only a procedural requirement and therefore directory in nature. It is a sufficient compliance with the procedure, if the Audit Report is filed at any stage before the completion of assessment. In the instant case, the Audit Report was available before the AO at the time of passing the rectification order under section 154. On these facts, I find that the AO cannot ignore the Audit Report in Form 10B, which has been validly furnished.”

11. Even otherwise, Ld. Counsel for the assessee has pointed out that the issue is covered in its favour by the decision of Jurisdictional High Court in the case of Association of Indian panelboard Manufacturer vs. DCIT (2023) E10L-900-HC-Ahm-IT and in the case of Sarvodaya Charitable Trust vs. ITO (2021) 125 taxmann.com 75 (Gujarat) as also various decisions of the ITAT, Ahmedabad Benches holding so. He drew our attention to the order passed by the ITAT, Ahmedabad Bench in the case of Karma Falya Trust vs. DCIT IN ITA No.10/Ahd/2023, dated 05.01.2024 allowing the assessee's claim of exemption denied in identical circumstances of belated filing of form 10B though subsequently filed during assessment proceedings, holding that the belated filing of Form 10B would not come in the way of claim of exemption if the form is filed during assessment proceedings . It was pointed out that the ITAT followed the aforestated decisions of the Jurisdictional High Court and various decisions of the ITAT while holding so. The relevant findings of the ITAT at para 10 of the order are as under:

“10. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the observation of the CIT(A) that there was an additional ground appears to be not tenable. Besides this, the assessee after obtaining the Audit Report during the course of assessment proceedings has filed the Audit Report and non filing of the Audit Report by the Auditor cannot be termed as assessee's lacuna. The Hon'ble Gujarat High Court in the case of Association of Indian Panelboard Manufacturer (supra) has categorically mentioned that filing of Audit Report is held to be substantive requirement but not the nodal stage of filing which is procedure once the Audit Report in Form 12B is filed to be available with the Assessing Officer before assessment proceedings take place, the requirement of law is satisfied. In the present case also, the assessee obtained the Audit Report dated 31.10.2018 from the Auditor but could not file the same on Income Tax Portal. Thus, the audit report was prepared well within the time. Thus, the CIT(A) should have taken cognisance of the same and the Assessing Officer should have also taken into account Audit Report for allowing the exemption under Section 11 of the Act to the assessee. Thus, appeal of the assessee is allowed.”

12. The Ld.DR was unable to controvert the contention of the Ld.Counsel for the assessee that the Ld.CIT(A) himself had held the assessee eligible to claim of exemption finding form 10B to be filed and available during rectification proceedings .He was also unable to either distinguish the decisions of the jurisdictional High court relied upon by the Ld.counsel for the assessee nor was able to draw our attention to any decision, either of the jurisdictional High Court or the Hon'ble apex court, holding to the contrary.

13. Considering the above, it is abundantly clear that the issue is squarely covered in favour of the assessee. I see no reason why the assessee be denied the claim of exemption u/s.11 of the Act. The AO is directed to allow the assessee's claim of exemption u/s.11 of the Act.

14. In the result, the appeal filed by the assessee is allowed.

This Order pronounced on 08/01/2026

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 08/01/2026

S. K. SINHA

True Copy

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

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

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad