

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW 'B' BENCH, LUCKNOW
BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.519/LKW/2025
A.Y. 2019-20

Dr. R.M. Lohia Institute of Medical Sciences, Vibhuti Khand, Gomti Nagar, Lucknow, U.P.	vs.	NFAC, Delhi
PAN: AAATD9802F		
(Appellant)		(Respondent)

Assessee by:	Sh. B.P. Yadav, Adv
Revenue by:	Sh. Neeraj Kumar, CIT DR
Date of hearing:	28.10.2025
Date of pronouncement:	13.01.2026

ORDER

PER NIKHIL CHOUDHARY, A.M.:

This is an appeal filed by the assessee against the orders of the Id. CIT(A) dated 27.08.2024 wherein the Id. CIT(A) has dismissed the appeal of the assessee in *limine* on account of the delay in the filing of such appeal. Accordingly, the assessee is aggrieved at this order of the Id. CIT(A) and has come before us in appeal. The grounds of appeal are as under:-

"1. That the appellant in the present case is a Super Speciality Medical Institute incorporated by the Uttar Pradesh Government to provide Tertiary level medical facility and medical education to the UG and PG Medical Courses and for the medical treatment of the public at large.

2. That the assessee is substantially funded by the Government of Uttar Pradesh as the grant provided by the Government of Uttar Pradesh has been more than 50% of the total receipts earned during the year under consideration. As the appellant is engaged in carrying out activities of running medical colleges and hospital, the whole receipts earned by the assessee is exempt from tax by virtue of the provisions contained u/s 10(23C)(iiiab) and 10(23C)(iiiac) of the I.T. Act, 1961 [hereinafter referred to as the "Act"]

3. That for the year under consideration assessee could not file its return of income u/s 139(1) of the Act but the case of the assessee was reopened by

way of issuing notice dated 28.03.2023 u/s 148 of the Act by the office of the Deputy Commissioner of Income Tax, Exemption Circle, Lucknow [JAO].

4. That in response to notice dated 28.03.2023 issued u/s 148 of the Act assessee filed its return of income on 02.06.2023 declaring nil income by availing exemption u/s 10(23C)(iiiab) / (iiiac) of the Act.

5. That the assessment order was framed by the National Faceless assessment centre [FAO] vide order dated 23.01.2024 passed u/s 147 r.w. 144 of the Act and assessee was assessed at Rs.22,41,06,732/-by making aggregate additions of Rs. 22,41,06,732/-details as under-

On account of Foreign remittances	Rs. 20,76,65,884/-
On account of cash deposits	Rs. 1,42,05,865/-
On account of non-deduction of tax u/s 194J	Rs. 2,11,111/-
On account of non-deduction of tax u/s 194C	<u>Rs. 20,23,872/-</u>
	<u>Rs. 22,41,06,732/-</u>

6. That being aggrieved by the assessment order so passed, assessee filed appeal before the office of Commissioner of Income Tax (Appeals), NFAC with a prayer for the condonation of delay of 20 days.

7. That the Commissioner of Income Tax (Appeals) vide his order dated 27.08.2024 dismissed the appeal in limine by observing that "I am of the view that in the absence of existence of reasonable cause and also in the absence of proper evidence, the appeal filed by the assessee late by 20 days, the delay is not condonable. Hence, the appeal of the assessee is not admitted and the same is dismissed in limine".

8. That during the course of proceedings before the Commissioner of Income Tax (Appeals), NFAC, appellant filed complete submissions along with the documentary evidences on the merit of the additions made by the Ld. A.O. but the Ld. CIT(A) while passing the impugned appellate order did not appreciate the merit of the submissions made by the assessee and dismissed the appeal by observing that assessee did not furnish any submission.

9. That the dismissal of the appeal by the Ld. CIT(A) has been dome without appreciating the merit of the case and hence this appeal."

2. At the very outset, it is noticed that the appeal filed by the assessee is delayed by 284 days. A condonation petition and an affidavit have been filed by the Financial Controller of the assessee institute, wherein it has been stated that the assessee had hired a C.A. to handle its case before the Income Tax Authorities and was under the impression that the said C.A. was attending to the assessment and appeal matters promptly. However, when it was discovered that the said C.A. had not been making compliance to TDS and other matters, the assessee changed its counsel and when the new counsel logged on to the portal, he found that the Id. CIT (A) had already disposed of the appeals of the assessee on 27.08.2024. It was

submitted that while the said appellate order had been sent to the email ID of the assessee and also the email ID of the then C.A., but the assessee did not view its portal as it was under the impression that the matter was being looked after by the C.A. and the C.A. had not informed the assessee about the passing of any such order. It was further submitted that no physical service of the order had taken place, and for this reason, the assessee was unaware of the passing of the order. On account of such grounds, it was prayed that the delay may kindly be condoned and the appeal may be heard. We noticed from the record that the proceedings before the Id. AO were completed *ex parte* on account of failure to respond to the various notices issued by the Id. AO. We also note that the appeal before the Id. CIT(A) was also delayed on account of the submission of the assessee that, having given the email ID of the C.A. as the contact detail, it was not aware of the notices and orders issued by the Department and that subsequently it had updated its own email ID into the Departmental records. Thus, while the fact of non-compliance by the C.A. and delayed filing of appeal before the Id. CIT(A) is explained by the same is established, we observe that the failure to comply at the earlier stage should have made the assessee more vigilant in proceeding before the Id. CIT(A). Be that as it may, we note the submission of the Finance Controller that the reason for not checking the portal, was the belief that the appointed C.A. was looking into the affairs of the institute, for which he had been contracted. We also note the submission of the assessee that, as it is engaged in carrying out of activities of running of medical colleges and hospitals, the complete receipts earned by the assessee is exempt from tax by virtue of the provisions of section 10(23C)(iiiab) and 10(23C)(iiiac) and observe that the receipts of the assessee can only be brought to tax if they are otherwise taxable. We further note the observations of the Hon'ble Supreme Court in the case of Collector of Land Acquisition vs. MST. Katiji & Ors (1987) 167 ITR 471 (SC) that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred and therefore, condoning the delay in the given facts of the case, we admit the appeal for consideration.

3. The facts of the case are that the ld. AO observed that the assessee had not filed a return of income for the A.Y. 2019-20 under section 139 of the Act. He, therefore, issued a notice under section 148 of the Act on account of information available with him that the assessee had entered into total transactions amounting to Rs. 22,41,06,732/-. It appears that the assessee filed an objection to the said notice but the objection was not found tenable by the ld. AO. Subsequently, notices under section 143(2) and 142(1) were also issued, but these were not responded to. Finally, two show cause notices were issued and upon failure to receive replies from the assessee, the ld. AO completed the assessment at the total income of Rs. 22,41,06,732/-.

4. Aggrieved with the said assessment, the assessee went in appeal before the ld. CIT(A). This appeal was late by 20 days for the reasons described above. Before the ld. CIT(A), in the statement of facts, it was submitted that the assessee was a registered society incorporated in 2006 which was running a medical college for the poorer sections of the society. It was substantially funded by the Government of Uttar Pradesh and the Revenue of the assessee was totally exempt from income tax under sections 10(23C)(iiiab) and 10(23C)(iiiac). However, the ld. AO had made an addition of Rs. 22,41,06,732/-. It was submitted that the assessee being a Government owned and operated medical college, was not taxable under the Income Tax Act, as per the exemptions given under section 10. It was further submitted that the additions that have been made on account of the unexplained cash deposits, were amounts deposited out of money received for treatment of patients and fees of medical students. It was further submitted that the amount of foreign remittance added back, was the amount paid for import of medical equipment and machines related to the treatment of patient in the hospital and the receipts were primarily on account of government grant received from the Government of Uttar Pradesh. On account of these facts, the assessee claimed that since it was a Government organization being solely funded by the Government, the mere non filing of an ITR cannot make it taxable under the Income Tax Act. Further, it was submitted in the grounds of appeal that the

assessee was covered under sub clause 4(e) of section 139, which had been misinterpreted by the ld. AO. However, the ld. CIT(A) did not consider any of these issues. He noted that the appeal of the assessee was delayed by 20 days and since, in his opinion, no case had been made out for the assessee for explaining the delay, he dismissed the appeal of the assessee in *limine*, after relying upon various case laws.

5. The assessee is aggrieved with the same and has accordingly come in appeal. Sh. B.P. Yadav, Advocate (hereinafter referred to as the ld. AR) pointed out that a non-taxable entity could not be made to pay tax only because of the failure of its counsel to make due compliance before the lower authorities. It was submitted that the assessee was a government run institute existing solely for the purposes of rendering medical relief to the poor and medical education. It was in possession of all documents to establish the fact that it was not liable to pay any tax. The ld. AR acknowledged the fact that the assessee had not been able to produce the same before the lower authorities but requested for an opportunity to present them so that the tax liability which had been created upon it outside of the provisions of law could be reduced.

6. On the other hand, Sh. Neeraj Kumar, CIT DR (hereinafter referred to as the ld. DR) submitted that the assessee had not been compliant either before the ld. AO or before the ld. CIT(A) and it was for this reason that the tax had been levied upon it. He, therefore, prayed that in case the matter was to be restored back to the ld. AO, directions may be issued by the Tribunal to make due compliance, otherwise it may be presumed that the assessee had no explanation to offer and the amount should be assessed in its hands.

7. We have duly considered the facts and circumstances of the case. We note that the assessee had laid out the fact that its income may not be liable to tax as per the provisions of sections 10(23C)(iiiab) and 10(23C)(iiiac), before the ld. CIT(A) in the statement of facts and the grounds of appeal filed before him. It had also explained the reasons for the delay in the filing of the appeal. However, the ld. CIT(A) chose not to place any credence on the condonation petition filed by the

assessee and also did not think it worthy to consider the fact that the assessee may not be liable to tax on account of exemptions that it may be entitled to enjoy. We believe that given the facts and circumstances of the case, the assessee deserves one more opportunity to demonstrate that the additions made by the Id. AO are not tenable. We, therefore, restore the matter back to the file of the Id. AO for consideration of evidences that the assessee may place before it. We also direct the assessee to make all due compliances before the Id. AO, failing it shall be presumed that the assessee had no explanation to offer. As the matter stands restored to the file of the Id. AO, the appeal is held to be allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purposes.
Order pronounced on 13.01.2026 in the Open Court.

Sd/-
[KUL BHARAT]
VICE PRESIDENT

DATED: 13/01/2026

Copy forwarded to:

1. Appellant –
2. Respondent –
3. CIT DR , ITAT,
4. CIT,
5. The CIT(A)

Sd/-
[NIKHIL CHOUDHARY]
ACCOUNTANT MEMBER

By order
Sr. P.S.