

IN THE INCOME TAX APPELLATE TRIBUNAL
“PATNA BENCH”, PATNA
(VIRTUAL HEARING AT KOLKATA)

SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
SHRI SONJOY SARMA, JUDICIAL MEMBER

ITA No. 475/PAT/2025
Assessment Year : 2013-14

Almahad Trust, Qazinagar, Phulwari Sharif, Patna – 801505, Bihar [PAN: AAETA5151G]	Vs.	ITO (Exemption), Ward-1, Patna - 800001
APPELLANT		RESPONDENT

Assessee by	:	Sh. D.V. Pathy, Sr. Adv.
Revenue by	:	Sh. Manab Adak, JCIT

Date of hearing	:	15.01.2026
Date of Pronouncement	:	20.01.2026

ORDER

PER LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

This is an appeal filed by the assessee against the order passed u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”) by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter “the Ld. CIT(A)] dated 19.08.2024, DIN & order No. ITBA/NFAC/S/250/2024-25/1067740098(1) on the following grounds:

- “1. For that the grounds of appeal hereto are without prejudice to each other.*
- 2. For that the order of the learned assessing officer is bad both in law and on facts.*

3. For that the order of the learned assessing officer is based on presumption, surmises and conjectures.

4. For that the learned Commissioner of Income Tax (Appeals) has erred in setting aside the order of assessment for verification of its subsequent registration on 31.12.2021 and allow exemption in view thereof as per law without consideration of the subject matter of levy of tax on the gross receipt itself amounting to 21,84,076 out a remote consideration of the expenditure incurred in the carrying out of the educational activity.

5. For that the learned Commissioner of Income Tax (Appeals) has erred in not considering the eligibility of exemption under section 10 (23C) (iiiad) of the Act notwithstanding the fact that the appellant derives income solely from carrying out of the educational activity and that the pre-conditions for claim of exemption are adequately satisfied.

6. For that the learned Commissioner of Income Tax (Appeals) has erred in not considering the issue of applicability of section 69A of the Act.

7. For that other various grounds which may be urged at the time of hearing.”

2. At the outset of hearing, we noted that the appeal filed by the assessee is delay by 355 days. In this regard, the assessee has filed an affidavit stating the reasons for not filing appeal within the due date which is as under:

“1. I Md. Yar Ali son of Afzal Hussain, 37, Makhatu, PO Handu, District Gushwa Jharkhand do hereby solemnly affirm and declare as follows

2. That am the Manager of Almahd Trust, having its office At QATI Nagar, Phulwari Shariff, Patna, Bihar and am authorised to swear thus affidavit That an order was passed by the Commissioner of Income Tax (Apps), SHAC under section 250 of the Act on 19:08 2021 for the Assessment Year 201 The same was served on the same date online.

3. That the appeal before the Hon'ble Income Tax Appellate Tribunal against the order un appeal passed by the Commissioner of Income Tax (Appeals), NFAC under section 250 of the Act was filed on 21.10.2025

4. That as per the provisions as contained in the Act the appellant was required to file the appeal within period of 60 days from the date of the receipt of the order. Thus, there is a delay of approximately 13 months and 17 days in the tiling of the present appeal.

5. That the aforesaid trust as filed a petition for condonation of delay un filing the appeal. In paragraph 4 of the petition, it has been stated that pursuant to the setting aside of the order in appeal by the learned Commissioner of Income Tax appeal wherein the issue as regards tax ability of gross receipt was not considered it was waiting for the order in consequence of the setting aside of the order by the learned assessing officer which came to be passed only on 25.08.2025. It is only thereafter, the appellant herein has filed the

present appeal This stated the saad paragraph that the delay is wholly attributed to the period of waiting particularly, in view of the settled law that gross receipts we subject to tax only in absence of registration and the expenditure incurred, for carrying out the charitable activity has to be allowed.

6. That I state that the aforementioned trustees are educational institution and qualifies for exemption under section 10 (23C) (iiiad) of the Income Tax Act, 1961

I state that the statement made by me before going paragraph are true to best of my knowledge and belief.”

3. Vide affidavit dated 13.01.2026 in which it was stated that the Ld. CIT(A) remanded this issue back to the AO and the AO passed consequent order on 25.08.2025 and assessee was in. conscious that while computing income of the assessee by AO, the net income has to be considered for the income tax purpose. The assessee was in hope that the AO would consider the net income. However, the AO computed the entire gross receipts as income, therefore, there was a delay in filing the appeal.

4. Considering the facts of the delay in filing of appeal and reasons given therein, we condoned the delay relying on the judgment of Hon'ble Apex Court in the case of Collector, Land Acquisition vs Mst. Katiji, (1987) 167 ITR 171 (SC) and we also rely on the judgment of ITAT, Bangalore in the case of Well Trader Vs. DCIT, ITA No. 1264/Bang/2024 for A.Y. 2020-21 in which various other judgments have been referred and it has been held that the assessee had a “reasonable cause”, therefore, we respectfully following the above judgments and considering the facts of the case and interests of justice we condone the delay and the appeal is taking for adjudication.

5. Briefly stated that facts of the case are that as per e-filing portal the assessee has deposited cash of Rs. 21,84,076/- in A/c No. 032404010003154 to J & K Bank based on the information. A notice u/s 148 of the Act was issued to the assessee. In response to the notice, the

assessee filed return of income on 13.04.2021, thereafter, notice u/s 143(2) of the Act was issued to the assessee and subsequently other statutory notices issued to the assessee but there was no response from the assessee side, AO has provided ample opportunity to the assessee and the assessee has failed to provide certificate of registration u/s 12A of the Act, certificate regarding 80G of the Act, therefore, exemption cannot be given as per section 11 of the Act and the entire cash deposits was treated as income of the assessee.

6. Aggrieved from the above order, the assessee filed appeal before the Ld. CIT(A) after considering the submission of the assessee, the Ld. CIT(A) remanded the issue back to the AO.

7. Aggrieved from the above order, the assessee filed appeal before the ITAT.

8. The Ld. Counsel submitted that both the authorities below committed error while passing the order, the assessee engaged in charitable activities and voluntary contribution received from the members are deposited into bank account of the assessee and the voluntary contribution is not part of the income of the assessee as per the settled law and he further submitted that the basic concept of the income tax to be charged on the net income of the assessee but not on the gross receipts. The assessee is registered society and engaged in a charitable activity, therefore, he requested that the matter may be examined to AO for afresh consideration.

9. On the other hand, the Ld. DR relied on the lower authorities and submitted that during the course of assessment proceedings, the assessee was unable to prove the source of cash receipts, first he has to establish the true nature of the source in the light of the income tax provision. Thereafter, the assessee may ask for the deduction of

expenditure from the gross receipts. Even at this stage of hearing before the Hon,ble Tribunal, the source of receipts had not been proved by the assessee and objected for giving further chance to the assessee.

10. Considering the rival submissions and perusing the materials available on record and order of authorities below. We noted that the cash deposit in J & K Bank account noted supra have been added by the AO for want of proper explanation from the assessee side. Considering the submission of the assessee, we agree that the net income should have been brought to tax as per the provisions of the Income-tax Act. However, we noted that the source of cash deposits has not been explained by the assessee, therefore, considering the facts of the case and in the interests of justice, we are remitting this issue to the file of AO for denovo consideration and decided the issue as per law after giving a reasonable opportunity of being heard to the assessee and net income computed by the AO as per the provision of Income-tax Act has to be charged to tax. The assessee is directed to substantiate its case with cogent documents in support of his case and not to seek unnecessary adjournments for early disposal of the case. In case of failure, no second leniency shall be granted to the assessee.

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

Order pronounced on 20.01.2026

Sd/-
(Sonjoy Sarma)
Judicial Member

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Dated: 20.01.2026
AK, Sr. P.S.

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches