

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, MUMBAI**  
**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER**  
**ITA Nos. 6374/MUM/2025 (AY: 2018-19)**  
**ITA No. 6375/MUM/ 2025 (AY: 2019-20)**  
*(Physical hearing)*

O P Jindal Foundation 5A Jindal Mansion, Dr. Deshmukh Marg, Pedder Road, Mumbai – 400026. [PAN No. AAATO1333N]	Vs	ITO, Exem. Ward-2(2), Mumbai Ashar IT Park, Thane, Maharashtra – 400602.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Rakesh Joshi, CA
Revenue by	Shri Sunil Mathews, Sr. DR
Date of institution of appeal	08.10.2025
Date of hearing	21.01.2026
Date of pronouncement	21.01.2026

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER;**

1. These two appeals by assessee are directed against the separate orders of Id. CIT(A), ADDL/JCIT(A)-2, Gurugram dated 18.08.2025 and 29.08.2025 for Assessment Year (AY) 2018-19 & 2019-20 respectively. Certain facts in both the appeals are common, the assessee has raised similar ground of appeal. Thus, with the consent of both the parties, both the appeals were clubbed, heard together and are decided by common order to avoid the conflicting decision. For appreciation of fact, facts in appeal for A.Y. 2019-20 in ITA No. 6375/M/2025 is treated as lead case. The assessee has raised the following grounds of appeal:

*"1. On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned CPC in making an adjustment to the return income u/s.143(1) of the Income Tax Act, 1961, without considering the facts and circumstances of the case.*

*2. On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in dismissing the appeal on the alleged plea that the appellant has not filed the audit report in Form 10B, hence, exemption u/s. 11 cannot be allowed, without appreciating the fact that appellant has filed the audit report on 31.10.2019 which was duly reflected on the income Tax portal and also mentioned in the submission filed before the Honorable CIT(A).*

*3. On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the 3 Learned CPC in assessing the income of the appellant at Rs.40,72,645/-, without considering the facts and circumstances of the case.*

*4. On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned CPC in not allowing the exemptions u/s 11 of the Income Tax Act, 1961 to the trust, even though both the return of income and form 10B were filed within the statutory due date, without considering the facts and circumstances of the case.*

*5. On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirming the action of the Learned CPC in not allowing the amount of Rs.35,77,141/-being amount applied towards objects and other administrative expense of the trust, without considering the facts and circumstances of the case.*

*6. The appellant craves leave to add, amend, alter OR DELETE the said ground of appeal."*

2. Rival submissions of both the parties have been heard and record perused.

The learned Authorised Representative (Id. AR) of the assessee submits that due date of filing return of income for Assessment Year (AY) 2019-20 was 31.10.2019. The assessee filed its return of income on 30.10.2019. However, audit report in Form 10B was filed on 31.10.2019. The Central Processing Centre (CPC) while processing the return of income not allowed the application of income under section 11/12 of the Income Tax Act as Form 10B was filed after filing return of income. The Id. CIT(A) confirmed the action of CPC by taking view that assessee failed to furnish Form 10B. The assessee has not complied with the mandatory requirement. In absence of audit report

in Form 10B, the claim of exemption under section 11 cannot be allowed. The Id. AR of the assessee submits that there are a series of decision including a recent decision of Hon'ble Jurisdictional High Court in Dakuben Saremalji Sancheti (Nodala Charitable Trust) vs CIT(E), 181 taxmann.com 913 wherein the delay in filing report in Form 10B was condoned. The Id. AR further submits that there is a series of decision of Tribunal as well as Higher court that when audit report was available during the assessment, the assessee should have been allowed exemption under section 11. The Id. AR of the assessee submits that audit report was available when return was processed by CPC as well as when appeal was heard by Id. CIT(A).

3. For A.Y. 2018-19, the Id. AR of the assessee submits that return of income for A.Y. 2018-19 was filed on 26.09.2018. The audit report in Form 10B was filed on 09.10.2018. The Id. CIT(A) held that report in Form 10B was not filed. The Id. AR of the assessee filed acknowledgement of receipt of Form 10B along with complete audit report. The due date for filing return and audit report for A.Y. 2018-19 was upto 31.10.2018, copy of CBDT Circular dated 08.10.2018 for extending due date is placed on record. The Id. AR of the assessee submits that rest of the fact are similar.
4. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the Revenue supported the order of lower authorities. The Id. Sr. DR for the Revenue submits that assessee was required to furnish Form 10B (audit report) before filing return of income. The assessee has not acted in accordance with rules framed by CBDT. The assessee should have applied for condonation of delay by CBDT.

5. I have considered the rival submissions of both the parties and have gone through the orders of lower authorities. I find that in both the years, the assessee has filed return of income as well as its Form 10B within due date. However, the return was filed prior to filing audit report in Form 10B. It is an admitted fact that when return was processed by CPC, the Form 10B was available in ITBA portal. There is no delay, rather it was filed subsequent to the filing of return of income in both the years. I find that Hon'ble Supreme Court in CIT vs GM Knitting Industries Ltd. (2016) 71 taxmann.com 35 (SC) / 376 ITR 456 (SC) held that even though necessary certificate in Form 10CCB along with return of income had not been filed but the same was filed before final order of assessment was made, the assessee was entitled to claim deduction under section 80IB. Thus, in view of the aforesaid legal position and applying the same principal that when statutory audit report was available during assessment, the assessee is eligible for relief. However, the present case is on better footing. In the present appeal, necessary Form 10B was filed before due date of filing return of income.
6. In the result, both the appeals are allowed.

Order pronounced in the open Court on 21/01/2026.

**Sd/-**

**PAWAN SINGH  
JUDICIAL MEMBER**

MUMBAI, Dated: 21/01/2026  
*Biswajit*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai