

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH 'SMC', LUCKNOW**

BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

I.T.A. No.272/Lkw/2025
Assessment Year:2023-24

Shri Namo Narain Educational And Charitable Trust, 1, Dohra Road, Rohilkhand University, Bareilly-243006 PAN:AAKTS1239F (Appellant)	Vs.	Income Tax Officer (Exemption) Bareilly. (Respondent)
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Appellant by	None
Respondent by	Shri Amit Kumar, Addl. CIT (D.R.)

ORDER

(A) This appeal vide I.T.A. No.272/Lkw/2025 has been filed by the assessee for assessment year 2023-24 against impugned appellate order dated 06/02/2025 (DIN & Order No.ITBA/APL/S/250/2024-25/1072970737(1) of Addl/Joint Commissioner of Income Tax (Appeals) ["ADDL/JCIT(A)" for short].

(B) In this case the assessee's return of income was processed u/s 143(1) of the Act and intimation was issued to the assessee, dated 29/10/2024 by Centralized Processing Centre ("CPC" for short) of the Income Tax

department. In the aforesaid intimation dated 29/10/2024 issued u/s 143(1) of the Act, whereby the CPC reduced the accumulation of income from Rs.73,77,534/- to Rs.57,77,534/-. A further addition of Rs.87,650/- was made in the aforesaid intimation u/s 143(1) of the I. T. Act. The assessee filed appeal against the aforesaid intimation issued u/s 143(1) of the Act, in the office of the learned CIT(A). Vide impugned appellate order dated 06/02/2025, the assessee's appeal was dismissed. The present appeal has been filed by the assessee against the aforesaid impugned appellate order dated 06/02/2025. The grounds of appeal are as under:

- "1. Learned Addl./JCIT(A)-3 has erred in law and on facts in reducing the amount of accumulation of income by Rs.16,00,000/- from Rs.73,77,534/- to Rs.57,77,534/-.*
- 2. Learned Addl./JCIT(A)-3 has erred in law and on facts in disallowing the repayment of loan during the year – Rs.87,650/- as application of income."*

(C) At the time of hearing before us, there was no representation from the assessee's side. In the absence of any representation from the assessee's side, the learned D.R. for Revenue was heard and the materials available on record were perused. In the impugned appellate order, the learned CIT(A) has observed that the assessee was given opportunity vide communication dated 08/12/2023 before making adjustment and resulting addition u/s 143(1) of the Act. However, from perusal of the order, it is not clear whether or not the opportunity given to the assessee was reasonable opportunity in the facts and circumstances of the case. Further, on merits, the statement of facts submitted by the appellant assessee is reproduced below:

Statement of Facts

1. The appellant is a Trust, registered under Section 12 A of the Income Tax Act, 1961 (The Act). The matter pertains to Assessment year 2023-24. The present appeal is being filed against the Order passed by Ld. Addl CIT/ JCIT (A) -3 Mumbai dated 6.2.2025.
2. The Trust had filed its turn of income in Form 7 as per the provisions of the Act. The Trust had also filed the requisite Audit Report in Form 10B within the due time, as per the law.
3. The Trust applied 91.16% of its income towards the object of the Trust during the year and balance 8.84% of its income – Rs. 73,77,534/- was claimed as Amount accumulated within the maximum limit of 15%, under Section 11(1)(a)/ 11(1)(b) of the Act.
4. However, the CPC Bengaluru has reduced the amount of accumulation to Rs. 57,77,534/- as per the Intimation dated 29.10.2024, under Section 143(1) of the Act, and the balance amount of Rs. 16,00,000/- has been considered as income of the Trust. This amount of reduction in accumulation is the subject matter of appeal in the present case.
5. For the first time, from the Appellate Order of the Addl/ JCIT-(3), it came to our notice that the amount of accumulation - Rs. 57,77,534/- as allowed in the intimation, has been picked up by the CPC from the Clause 31 (xxi) of the Form 10B, being the Audit Report, filed by the auditor.
6. In fact, this amount of Rs. 16,00,000/- pertains to the borrowings made by the Trust during the year which is required to be reduced from the application of income, during the year as per provisions of clause (ii) to Explanation 4 under Section 11(1) of the Act.

7. We have been informed by the auditor that there had been a technical glitch in utility of Form 10B which is required to be submitted online on the income tax portal. The Taxable amount in Clause 32 of the Form 10 B gets automatically computed as the various amounts of income and application thereof, are filled in various clauses from Serial number 23 to 31. Income Accumulated or set apart for application, as it does not exceed 15% of the income, is also required to be reported in Clause 31 (xxi) of the Form 10B. The various clauses at Serial number 23 to 31, do not include the requirement to report the borrowings made during the year. The Department, in its own wisdom, has required it to be reported at clause 37(E) of the Form 10 B. The, application out of borrowed funds, does not enter into computation of Taxable income, at Clause 32 in Form 10 B. The amount of borrowings during the year had been properly reported in Clause 37(E) of the Form 10B by the auditor.
8. In view of the aforesaid technical glitch, had the auditor reported the actual amount accumulated, not exceeding 15% of the income, at Clause 31(xxi) at Rs. 73,77,534/- instead of Rs. 57,77,534/-, the Taxable Income would have been in negative at Rs 16,00,000/-. With a view to avoid such negative reporting, the auditor resorted to reporting the amount accumulated at Rs. 57,77,534/-.
9. However, in ITR 7, the Income Tax return, to be submitted by the assessee, claiming exemption under Section 11, the Schedule A thereto requires to report the application made out of borrowings made during the year. If we deduct the borrowings made during the year from the amount of application, the amount available for accumulation will stand increased. Thus, the amount available for accumulation was higher at Rs. 73,77,534/- which is within the norm of 15% of Total Income and was accumulated and set apart for future application. Hence, there is a difference in the amount reported by the auditor and actual amount accumulated.
10. Form 10B/ Form 10 BB, in the revised format, were made applicable for the first time during the Assessment year 2023-24. There were lots of confusions and clarities were required by various stakeholders. It was for that reason that CBDT had extended the date of filing of audit report to 31 October, 2023 from 30th September, 2023 and even thereafter, another opportunity was given to assessee(s) to file the audit report in correct format where the wrong format had been submitted by the auditor.

11. It is also submitted that the technical glitches of filing the form should not prevail over the legitimate claims of the tax payer as per law. The correct position of Total income and application of income for the Assessment year 2023-24, is as under:

Particulars	Amount -Rs	Amount -Rs.
Income derived from the property during the year		8,34,91,515/-
Application made during the year on Revenue account	6,28,91,024/-	
Application made on Capital account	76,06,795/-	
Add: payments made during the year, disallowed in earlier year	80,81,395/-	
Less: Expenditure incurred but not paid	9,52,883/-	
Less: Application out of borrowings	16,00,000/-	7,60,26,331/-
Less: repayment of borrowings during the year		87,650/-
Amount accumulated to the extent it does not exceed 15%		73,77,534/-

Thus, the correct amount of accumulation Rs. 73,77,534/- which is within 15% of the Total Income, should have been allowed by the Addl/ JCIT (3) and therefore the order passed by the authorities is against bad in law.

12. The CPC has also erred in disallowing an amount of Rs. 87,650/-, being the amount of loan repaid during the year, though the correct particulars thereof, had been filled in the ITR 7.

(C.1) After some deliberations, the learned Departmental Representative submitted that the statement of facts (as referred to in foregoing paragraph (C) of this order, requires factual verification at the end of the Assessing Officer. Therefore, he submitted, the issues in dispute regarding the additions/adjustments made vide intimation u/s 143(1) of the Act be set aside to the file of the Assessing Officer. In view of the foregoing, all the issues are remitted to the file of the Assessing Officer with the direction to

pass order in accordance with law after providing reasonable opportunity to the assessee.

(D) In the result, the appeal of the assessee is partly allowed for statistical purposes.

(Order pronounced in the open court on 27/01/2026)

Sd/.
(ANADEE NATH MISSHRA)
Accountant Member

Dated:27/01/2026
*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. D.R., I.T.A.T.,