

IN THE INCOME TAX APPELLATE TRIBUNAL

JODHPUR BENCH, JODHPUR

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER

AND SHRI SUDHIR PAREEK, HON'BLE JUDICIAL MEMBER

ITA Nos. 21 & 22/Jodh/2023

(Assessment Years – 2017-18 & 2019-20)

Shree Tarak Guru Jain Granthalya Guru Pushkar Marg Shastri Circle, Udaipur(Raj) - 313001 PAN No. AAETS 2177 E		DCIT, CPC, Bengaluru/ITO (Exemption), Udaipur
Assessee by	Shri Yogesh Pokharna, C.A. (Physical)	
Revenue by	Shri K.C. Meena, Addl. CIT-DR (Virtual)	
Date of Hearing	13.01.2026.	
Date of Pronouncement	28.01.2026.	

ORDER

PER BENCH:

Both these appeals are filed by the assessee against the separate order of Ld. National Faceless Appeal Centre, NFAC [hereinafter referred to as NFAC/CIT(A)] dated 06.01.2023 with respect to assessment years 2017-18 and 2019-20 challenging therein denial of claim u/s 11(2) of the Income Tax Act.

2. Having heard both the sides and perusal of the record, we find that the Ld. CIT(A) has rejected claim of the assessee by observing that claim of exemption u/s 11(2) has been made by the assessee even though Section 13(9) expressly does not allow such a claim from assessment year 2016 onwards for belated returns. The other condition of this being apprehended from the information as per the return is also satisfied based on date of filing the return.

3. The Ld. Counsel argued that the CPC has limited power to add, or to deny benefits and exemptions u/s 143(1)(a) and thereafter, referred to Provisions of Section 143(1)(a) from the Act.

4. He submitted that in view of the limited powers, the AO and the CPC has no right to deny the benefits of set apart or application of income as the same requires interpretation of law with the proceedings as provided u/s 11 of the Income Tax Act. He has objected to Ld. CIT(A) observation that Section 13(9) introduces with effect from Assessment Year 2016-17 that benefit of application of income u/s 11 cannot be allowed where return of income is filed after due date. He submitted by strict interpretation of this Section 13(9) which allows belated filing of return will become redundant, and as such goes against the intention of the legislature.

5. Considering this genuine hardship faced by large number of assesses, CBDT has issued a circular F. No. 173/193/2019 ITA I dated 23rd April, 2019 with the clarification with regard to time allowed for filing that return of income subsequent to the insertion of Clause (ba) in Sub Section 1 of Section 12A of Income Tax Act, 1961.

6. The Ld. AR accordingly submitted that Section 13(9) and Section 12A(1)(ba) is covering both the returns filed in which application of return is claimed. He further contended that before making such adjustments u/s 143(1)(a), no intimations have been issued to the assessee which was mandatory requirement of the law. In support he placed reliance on the following judgments as under:

- **“ITAT Indore in the case of National Law University Vs. Deputy Commissioner of Income Tax in ITA No. 920/IND/2018, Asst. Year 2014-15.”**
- **“Kalyan Educational Society Vs. Assistant Commissioner Of Income Tax (2023) 105 ITR (Trib) 0694 (Kokata).”**
- **“Shri Rajkot Vishashrimali Vs. Income Tax Officer Exemption (2023) 225 TTJ 0992 (Rajkot).”**

7. In the present case, assessee has filed a belated return which the department has not held to be defect return u/s 139(9) and has processed it by accepting the revenue and capital expenditure though denying the disputed exemption claimed by the assessee.

8. In our view, once the return has been processed as a valid return, the question arises whether disallowances made is permissible adjustment under Section 143(1)(A) and whether this adjustment, permissible has been made in compliance to the first Provision of Section 143(1)(A) of the Act. Considering the facts of the case in perusal of Provisions of Section 143(1)(A) of the Act and CBDT circular, the contentions of the appellant have been remained un-rebutted by the department. Even if, any response is received from the assessee then the same should be considered before making any adjustment or disallowance u/s 143(1)(A) of the Act.

9. In our view, since there was no intimation given to the assessee before making any adjustment u/s 143(1)(A) of the act regarding disallowances of the denial of claims of exemption made by assessee u/s 11(1) in the intimation issued u/s 143(1)(A) of the Act and hence the impugned intimation was not in accordance with the law.

10. Without prejudice to above, we are of the considered view that income should be understood in its meaningful sense and while computing the total income of the assessee by considering the total receipt for the year and disallowing any exemption claimed by the assessee u/s 11(1) or other section by the CPC in the processing of the return of income.

11. Considering the peculiar facts of the case, we deem it appropriate to send back the matter to the file of the AO to examine the claim of exemption of assessee u/s 11(1) of the Act, afresh in accordance with law after considering the written submission of the assessee and the veracity of the evidences filed in support of its claim by granting adequate opportunity of being heard. The assessee shall cooperate in the proceedings in the assessment proceedings before the AO in verification of the claim of said exemption.

12. Accordingly, both the appeals are restored to the file of the AO to de novo exemption the claim of the assessee in accordance with law.

Order pronounced in the open court on 28/01/2026.

Sd/-

**(SUDHIR PAREEK)
JUDICIAL MEMBER**

Sd/-

**(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER**

Dated : 28/01/2026.

True Copy

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Copies to :

(1) The appellant.

- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

BY ORDER,

(Asstt. Registrar),
ITAT, Jodhpur