

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 No. 256/Jodh/2025

(Assessment Year – 2016-17)

Jainacharya Devendra Muni Shikshan and Chikitsa Shodh Sansthan N H 8-1 (4) Bhuwana Udaipur (Raj) - 313001 PAN No. AAATJ 5263 G		ADIT, CPC, Bengaluru/ ITO Exemption Ward Udaipur - 313001
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

DR. MITHA LAL MEENA, A.M.:

The appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax, Appeal, ADDL/JCIT (A)-1 Visakhapatnam [hereinafter referred to as "the JCIT appeal"] dated 05.03.2025 with respect to assessment year 2016-17 challenging therein disallowance of capital expenditure amounting to Rs. 24,75,863/- in corpus fund of Rs. 6,09,448/- without appreciating the merits of the case.

2. Having heard both the sides and perusal of the record, it is noted that assessee has filed its return of income and audit report in form 10B on

31.03.2018. In the course of scrutiny proceedings, the AO issued its show cause notice dated 08.12.2018 to the assessee. In compliance, assessee has filed a return of income u/s 139(4) on 31.03.2018. The date of compliance to the notice, the assessee has filed its return of income in form no. 10B on 31.03.2018, thus the form no. 10B was filed within the time limit provided u/s 139(4) of the Act. However, the appellant assessee has submitted that while uploading the return, mistake was occurred in mentioning the figure. The correct position was that the assessee has incurred capital expenditure of Rs. 24,75,863/- during the year and only surplus left is Rs. 9,71,916/- i.e. 10.83%.

3. The AO being not satisfied with the explanation of the assessee, and he has rejected the claim of the assessee and held that assessee failed to fulfil the mandatory conditions of e-filing of ITR within the time allowed in Section 139(1) of the Act and after issue of show cause notice on 08.12.2018, the assessee has made a story as afterthought and put up the claim that there was no accumulation u/s 11(2) and the entire amount was incurred in revenue and capital expenditure.

4. The Ld. CIT(A) has confirmed the finding of the AO by holding that AO was justified in rejecting claim of accumulation of fund of Rs. 21,75,000/- to be deemed application of income and treated the same as the income of the

assessee. Further, the Ld. CIT(A) has discussed that there was a difference in amount of voluntary contribution of Rs. 42,67,278/- shown in the ITR in computation of total income and Rs. 42,99,358/- shown in the balance sheet. The difference being of Rs. 32,080/- also confirmed stating that no documentary evidence or submissions made by the assessee inspite of being given several opportunities to present its case during appellate proceedings.

5. The Ld. Counsel for the assessee has argued that none of the notice issued by the Ld. CIT(A) u/s 250 of the Income Tax Act have been issued by physically or on the e-mail although the detail particulars were given in Form 35.

6. The AR further argued that the Ld. CIT(A) ought to have issued a show cause notice to the assessee before taking any adverse view. The AR for the appellant has submitted that the assessee may be granted minimum one opportunity to present its case before the Jurisdictional Assessing Officer (JAO) in view of the facts that it has made detailed compliance to the show cause notices issued by the AO. He argued that in order to enable the assessee to further substantiate its claim made in the return of income filed u/s 139(4) of the Act with the support of necessary credible evidence. The matter may be restored back to the file of the JAO with the direction that assessee may be

granted adequate opportunity of being heard and a show cause notice may be issued before finalisation of the assessment. The AR for the assessee undertakes to comply all the queries raised in the de novo assessment proceedings by the AO.

7. In view of the principles of natural justice, we consider it deem appropriate to remand the matter back to the file of the JAO to pass de novo assessment after granting adequate opportunity of being heard to the assessee after considering the written submissions filed on record and may be filed in the course of fresh assessment proceedings. The assessee shall cooperate in de novo assessment proceedings before JAO.

8. Accordingly, the matter is restored to the file of the JAO to pass the assessment order in accordance with law.

9. In result, the appeal is allowed for statistical purpose.

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

Sd/-

**(SUDHIR PAREEK)
JUDICIAL MEMBER**

Dated : 28/01/2026.

Nimisha

Sd/-

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

True Copy

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