

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
&
SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

I.T.A. No.1992/Ahd/2025
Assessment Year : 2020-21

Vishva Kalyan Foundation, Block No. 1, Nandanvan park, Opp. Mitra Mandal Vadi, Surendranagar Gujarat - 363001	Vs .	Income Tax Officer-Ward 2 (Exemption), Ahmedabad-380015
[PAN No.AACTV4240P]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Gaurang Khakhkhar, CA
Respondent by:	Shri Rameshwar P Meena, SR-DR

Date of Hearing	28.01.2026
Date of Pronouncement	30.01.2026

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Commissioner of Income Tax(Appeal), Addl/JCIT (A)-6 Mumbai vide order dated 25.08.2025 For A.Y. 2020-21.

2. The assessee has taken the following grounds of appeal:-

“1 On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in holding the delay in filing the appeal cannot be condoned The appellant prays that the delay be condoned and appeal should be taken up for hearing

2. The CPC has erred in law as well as in facts in denial of exemption to the appellant on the ground that the form no 10B was not E-furnished within the due date.

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3. *The CPC has erred in law as well as in facts in taxing gross receipts of Rs. 82,96,089/-, without allowing the revenue expenses incurred of 81,36,922/- in as much as only income can be taxed and not the gross receipts.*

4. *Your appellant craves leave to add alter amend delete or substitute the aforesaid grounds any time before or at the time of hearing of this appeal.*

3. The brief facts of the case are that the assessee is a public charitable trust which filed its return of income for A.Y. 2020-21 declaring nil income after claiming exemption under sections 11 and 12 of the Income-tax Act, 1961 (“the Act”). The audit report in Form No. 10B, though filed with a delay of about seventy-three days from the statutory due date, was uploaded by the assessee on 30-03-2021 along with the return of income and was thus available on the Departmental records well before the Centralised Processing Centre processed the return u/s 143(1) of the Act. The CPC, Bengaluru, however, while issuing intimation dated 30-11-2021 under section 143(1) of the Act, denied the exemption claimed under sections 11 and 12 of the Act solely on the ground that Form No. 10B had not been furnished within the due date and consequently determined the total income at Rs. 82,96,089/- and raised a tax demand of Rs. 32,74,880/-.

4. Thereafter, the assessee moved rectification applications under section 154 of the Act on 18-09-2024 and again on 16-12-2024 contending that the audit report had already been filed and was available when the return was processed and therefore the denial of exemption was

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erroneous. However, both the rectification applications were rejected by CPC, after which the assessee, after obtaining professional advice, filed appeal before the Commissioner of Income-tax (Appeals) on 09-03-2025 along with an Affidavit seeking condonation of delay of about 1021 days.

5. The learned CIT(Appeals), after considering the affidavit and submissions on the issue of limitation, declined to condone the delay in filing the appeal. The CIT(Appeals) held that the assessee had failed to show sufficient cause for such an inordinate delay in filing appeal, particularly when even the rectification applications had been filed after a very long gap, and treated the inaction as negligence and laches on the part of the assessee. the CIT(Appeals) placed reliance on several judicial pronouncements including *Majji Sinnemma v. Reddy Sridevi* (2021 SCC OnLine SC 1260), *Ajay Dabra v. Pyare Ram*, *Balwant Singh v. Jagdish Singh*, *Chief Postmaster General v. Living Media India Ltd.*, and other authorities and held that limitation provisions have to be strictly applied and that mere assertions of ignorance of law cannot constitute sufficient cause. On this reasoning, CIT(Appeals) did not condoned the delay, and the appeal and was dismissed without adjudicating the issues on merits.

6. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee

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7. We have heard the rival contentions and perused the material on record.

8. The undisputed chronology placed before us by the learned counsel for the assessee shows that for A.Y. 2020-21 the due date for filing Form No. 10B was 15-01-2021, the audit under the Bombay Public Trusts Act was obtained on 29-01-2021, the due date for filing the return was 15-02-2021 and **both the return of income and Form No. 10B were e-filed on 30-03-2021. The return was processed under section 143(1) only on 30-11-2021, much after Form No. 10B had already been uploaded and was available on the Departmental system.** The assessee filed rectification applications on 18-09-2024 and 16-12-2024, the first appeal before CIT(A) was filed on 09-03-2025, the order of CIT(A) was passed in August 2025 and the present appeal before the Tribunal was filed in October 2025.

9. The central grievance of the assessee before us is that exemption under sections 11 and 12 of the Act was denied at the processing stage under section 143(1) of the Act even though Form No. 10B had already been filed and was available with CPC and that the learned CIT(A) erred in dismissing the appeal on grounds of limitation without appreciating that the demand itself arose from a purely technical and unsustainable adjustment. The learned counsel relied on a series of decisions of the

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Ahmedabad Benches of the Tribunal and the Hon'ble Gujarat High Court, including Electronics & Quality Development Centre v. DCIT (Exemption) [2026] 182 taxmann.com 118 (Ahmedabad-Trib.), Shree Vardhman Stanakvasi Jain Shrivak Trust v. ITO [2025] 172 taxmann.com 165 (Ahmedabad-Trib.), Shree Bhakt Samaj Vikas Education Trust v. ACIT (Exemption) [2025] 175 taxmann.com 1076 (Ahmedabad-Trib.), Barwala Panjrapole v. ITO [2025] 175 taxmann.com 895 (Ahmedabad-Trib.) and the binding judgments of the Hon'ble Gujarat High Court in Laxmanarayan Dev Shrishan Seva Khendra [2024] 167 taxmann.com 548, Parul Mahila Pragati Mandal [2025] 175 taxmann.com 922, Babubhai C. Jariwala Charitable Trust [2025] 180 taxmann.com 8 and Sarvodaya Charitable Trust [2021] 125 taxmann.com 75.

10. In Electronics & Quality Development Centre (supra), the Ahmedabad Bench held that where Form No. 10B had been filed along with a revised return and was available on record before issuance of intimation under section 143(1), denial of exemption under section 11 of the Act at the processing stage was beyond the scope of section 143(1)(a) of the Act. The Tribunal categorically observed that filing of audit report in Form No. 10B is procedural in nature and that delay therein is a curable defect. The Bench reproduced and relied upon the Gujarat High Court decisions and concluded as under:

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“The legal position is now well settled that filing of audit report in Form No. 10B is a procedural requirement and not a substantive condition for claiming exemption under section 11. Delay in filing such audit report is a curable defect and exemption cannot be denied merely on such technical ground, particularly when the audit report is furnished during assessment or appellate proceedings.”

11. Similarly, in *Shree Vardhman Stanakvasi Jain Shravak Trust* (supra), the Ahmedabad Bench held that delayed filing of Form No. 10B is a procedural defect and once the form is filed before the appellate authority, exemption under sections 11 and 12 cannot be denied merely for such delay. The Tribunal also observed that treating issues such as corpus donation or denial of exemption on technical grounds while processing under section 143(1) travels beyond the permissible scope of prima facie adjustments contemplated in that provision.

12. In *Barwala Panjrapole* (supra), the Tribunal reiterated that where Form No. 10B was available with the Department prior to issuance of intimation under section 143(1), exemption under section 11 could not be denied merely because of minor delay in filing the form, and that if verification was required, the matter could at best be restored for factual examination rather than sustaining the adjustment.

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13. The Hon'ble Gujarat High Court in Sarvodaya Charitable Trust (supra) made significant observations, which read as under:

“The provision regarding furnishing of audit report with the return has to be treated as a procedural proviso. It is directory in nature and its substantial compliance would suffice... the benefit of exemption should not be denied merely on account of delay in furnishing the same and it is permissible for the assessee to produce the audit report at a later stage either before the Income-tax Officer or before the appellate authority by assigning sufficient cause.”

14. Applying these settled principles to the facts before us, we find that in the present case Form No. 10B was admittedly filed on 30-03-2021, whereas the CPC processed the return only on 30-11-2021. Therefore, on the date of processing under section 143(1) of the Act, the audit report was already very much on record. Denial of exemption under sections 11 and 12 on the ground of belated filing of Form No. 10B was thus, in our view contrary to the law laid down by the Hon'ble Gujarat High Court and the consistent view taken by the coordinate benches of this Tribunal.

15. In our considered view, the learned CIT(Appeals) erred in declining to condone the delay and in dismissing the appeal in limine without appreciating that the underlying adjustment itself ran contrary to binding judicial precedents and that Form No. 10B had been filed and was available at the time of processing of the return. Having regard to the authoritative pronouncements of the Hon'ble Gujarat High Court and the

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Ahmedabad Benches of the Tribunal, and respectfully following the same, we hold that the denial of exemption under sections 11 and 12 merely on account of alleged belated filing of Form No. 10B, when such form was already on record at the time of issuance of intimation under section 143(1), was not justified in law.

16. Accordingly, we direct that the exemption claimed under sections 11 and 12 of the Act be allowed to the assessee, since Form No. 10B had already been furnished and was available with the CPC when the return was processed.

17. In the result, the appeal of the assessee is allowed.

This Order is pronounced in the Open Court on 30/01/2026

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated - 30//01/2026

Neelesh, Sr. PS

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad