

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2265/PUN/2025
निर्धारण वर्ष / Assessment Year : 2018-19

Income Tax Officer, Kolhapur	Vs.	Sarvoday Shikshan Sanstha, A/P Umadi Tal Jath, Dist. Sangli-416413 PAN : AAETS2962D
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

CO No.45/PUN/2025
निर्धारण वर्ष / Assessment Year : 2018-19

Sarvoday Shikshan Sanstha, A/P Umadi Tal Jath, Dist. Sangli-416413 PAN : AAETS2962D	Vs.	Income Tax Officer (Exem.), Kolhapur
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Mrs M.N. Kulkarni
Department by :	Shri Amit Bobde
Date of hearing :	29-01-2026
Date of Pronouncement :	30-01-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

This appeal by the Revenue and the Cross Objection by the assessee are directed against the order dated 29.07.2025 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi ["CIT(A)/NFAC"] pertaining to Assessment Year ("AY") 2018-19. For the sake of convenience, the appeal filed by the Revenue and the Cross Objections filed by the assessee were heard together and are being disposed off by this common order.

ITA No. 2265/PUN/2025 by the Revenue.

2. Briefly stated the facts are that the assessee trust is registered under the Societies Registration Act, 1860 and solely engaged in carrying on educational activities. The assessee trust is approved u/s 12AA(1)(b)(i) of the Income Tax Act, 1961 (the "Act") by the Ld. CIT(Exemption) vide order

dated 21.09.2016. For AY 2018-19, the assessee filed e-return of income on 23.11.2018 declaring total income of Rs.Nil and claiming exemption u/s 11 of the Act. The return was initially processed u/s 143(1) of the Act on 10.11.2019 by CPC at Rs.12,05,79,265/-. Thereafter, the case of the assessee was selected for scrutiny under E-assessment Scheme, 2019 through CASS with a reason of "Receipts of Trust". Accordingly, statutory notice(s) u/s 143(2) and 142(1) of the Act along with questionnaire were issued and served upon the assessee through e-compliance module. In response thereto, the assessee submitted the requisite details and information. During the course of assessment proceedings, it was noted by the Ld. Assessing Officer ("**AO**") that total receipts of Rs.12,05,79,265/- has been claimed by the assessee trust as exemptions u/s 11 of the Act. On verification of Form 10B i.e. audit report, the Ld. AO found that the assessee e-filed Form No. 10B on 07.12.2019. The return of income for relevant AY 2018-19 was filed on 23.11.2018 which was beyond the extended due date of 31.10.2018 as per the CBDT Order u/s 119 of the Act bearing No.F.No.225/358/2018/ITA-II dated 08.10.2018. The Ld. AO, therefore, noted that the assessee has filed return of income as well as audit report beyond the due date and therefore there is a violation of conditions as prescribed u/s 12A of the Act and the provisions of section 11 and 12 shall not apply in relation to the income of the assessee trust. He, therefore, proceeded to complete the assessment u/s 143(3) r.w.s. 143(3A) & 143(3B) of the Act vide his order dated 13.04.2021 thereby disallowing the exemption amounting to Rs.12,05,79,265/- claimed by the assessee and adding the same back to the income of the trust in view of the provisions of section 12A(1)(b) of the Act r.w. 1st proviso to Rule 12(2) of the Income Tax Rules, 1962.

3. Aggrieved, the assessee carried the matter before the Ld. CIT(A)/NFAC. During the appellate proceedings, the assessee contended that the Ld. AO ought not to have denied the exemption claimed by the assessee since section 12A(1)(b) allows the filing of return of income within time allowed u/s 139 and not essentially u/s 139(1) of the Act. The assessee also raised an alternate plea before the Ld. CIT(A)/NFAC that the addition, if any, ought to have been restricted only to the net commercial income and not the entire gross receipts. The Ld. CIT(A)/NFAC allowed the appeal of the assessee and directed the Ld. AO to allow exemption claimed

by the assessee u/s 11 of the Act after due verification of the facts and determine the income accordingly by observing as under :

“I have perused the assessment order and the submission of the appellant and find that the only reason for AO to disallow the benefits of section 11 of the Act in the appellant's case is late filing of audit report in form 10B view provisions of section 12A(1)(b) of the I.T. Act, 1961, read with 1st Proviso to Rule 12(2) of the Income Tax Rules, 1962. However, from the records, I find that the application for condonation of delay in submission of Form 10B for A.Y. 2018-19 has been allowed under section 119(2)(b) of the Act by the Principal Chief Commissioner of Income-tax(Exemptions), Delhi vide order with DIN ITBA/COM/F/17/2024-25/1071108009(1) dated 11/12/2024. Consequently, the deficiency in terms of section 12A(1)(b) of the I.T. Act, 1961, read with 1st Proviso to Rule 12(2) of the Income Tax Rules, 1962 is removed and benefit under section 11 of the Act are available to the appellant trust.”

4. Dissatisfied, the Revenue is in appeal before the Tribunal raising the following solitary ground of appeal :

“i) On the facts and in the circumstances of the case, the Ld. CIT(A) erred in allowing exemption under sections 11 and 12 without considering that, as per clause (ba) of section 12A(1), filing of the return within the due date prescribed under section 139(1) is a mandatory condition.”

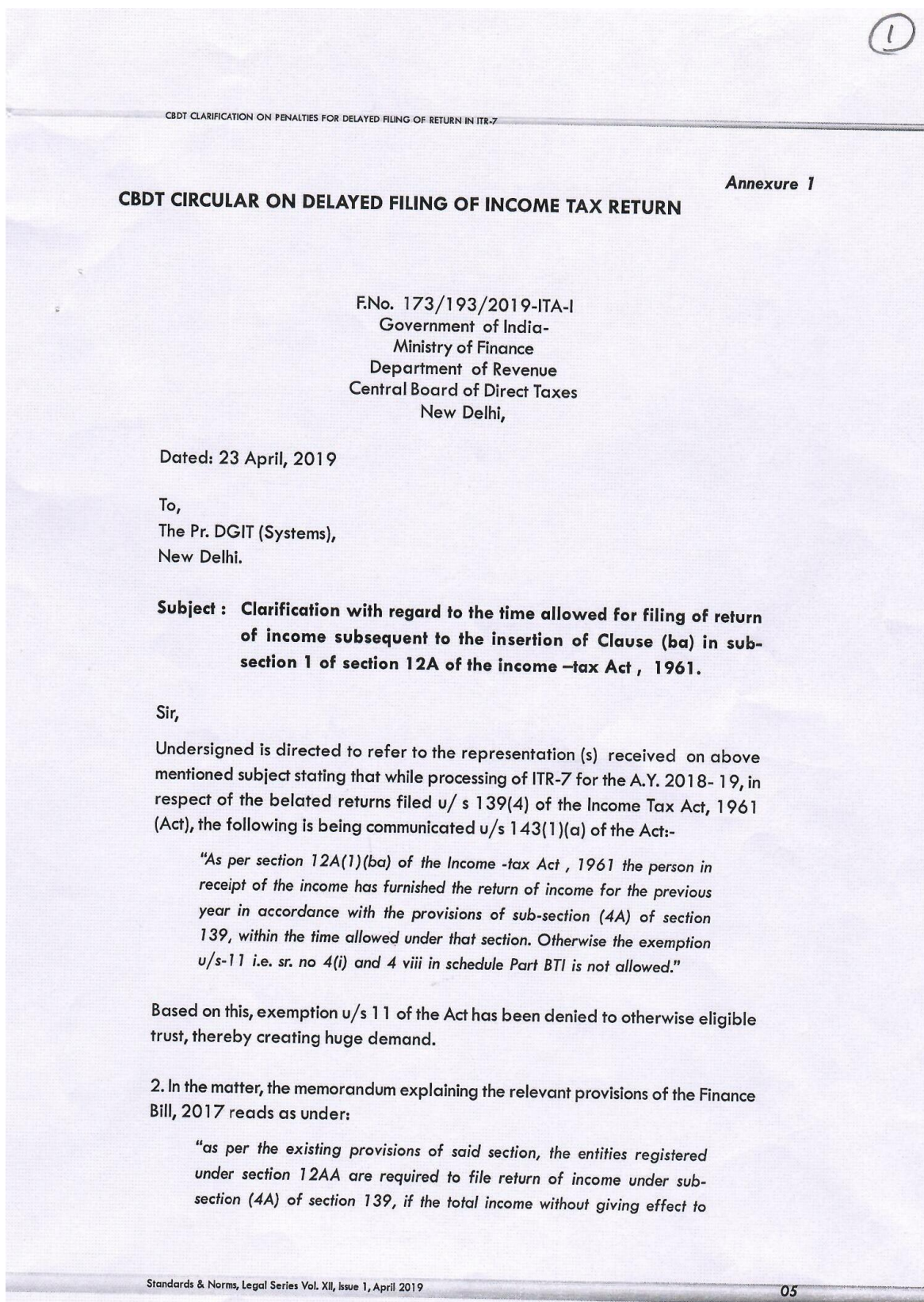
5. At the outset, the Ld. AR submitted that the impugned issue is covered in favour of the assessee by the CBDT Circular No. F.No.173/193/2019-ITA-I dated 23rd April 2019, a copy of which was placed on record. She submitted that as per the said Circular the return of income filed by the assessee is within time limit u/s 139(4) of the Act and the said CBDT Circular has not been considered by the Ld. AO/CIT(A)/NFAC. Therefore there is no merit in the ground of appeal raised by the Revenue in view of the said Circular.

6. The Ld. DR fairly conceded to the above submission of the Ld. AR.

7. We have heard the Ld. Representatives of the parties and perused the material available on record. The facts of the case are not in dispute. The assessee trust is registered u/s 12A/12AA of the Act. The assessee e-filed its return of income on 23.11.2018 u/s 139(4) which is beyond the due date of 31.10.2018 u/s 139(1) of the Act. However, the return filed by the assessee trust is within the time limit u/s 139(4) of the Act. The only grievance of the Revenue is that since return of income is not filed u/s 139(1) of the Act, the assessee trust is not eligible for its claim of

exemption u/s 11 and 12 of the Act. It is the contention of the Ld. Counsel for the assessee that the Ld. AO/CIT(A)/NFAC has not considered the CBDT Circular No. F.No.173/193/2019-ITA-I dated 23rd April 2019 according to which the assessee has validly claimed exemption u/s 11 of the Act.

8. We have perused the CBDT Circular No. F.No.173/193/2019-ITA-I dated 23rd April 2019 which is reproduced below :



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CBDT CLARIFICATION ON PENALTIES FOR DELAYED FILING OF RETURN IN ITR-7

the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax. However, there is no clarity as to whether the said return of income is to be filed within time allowed u/ s 139 of the Act or otherwise. In order to provide clarity in this regard , it is proposed to further amend section 12A so as to provide for further condition that the person in receipt of the income chargeable to income-tax shall furnish the return of income within the time allowed under section 139 of the Act.

These amendments are clarificatory in nature.

These amendments will take effect from 1st April, 2018 and will, accordingly, apply in relation to assessment year 2018-19 and subsequent years."

3. Additionally, an excerpt of circular 02/2018 dated 15.02.2018 "Explanatory Notes to the Provisions of the Finance Act, 2017" on insertion of clause (ba) in Sub section (1) of section 12A is quoted as under:

"the entities registered under section 12AA are required to file return of income under sub-section (4A) of section 139 of the Income -tax Act, if the total income without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax. Amendment to section 12A of the Income-tax has been made so as to provide for additional condition that the person in receipt of the income chargeable to income-tax shall furnish the return of income within the time allowed under section 139 of the Income -tax Act."

3. Thus, for a trust registered U/s 12AA of the Act to avail the benefit of exemption u/s 11 shall inter-alia file its return of income within the time allowed u/s 139 of the Act. Accordingly, orders u/s 143(1)(a) in those cases in which demand has been raised on this issue may please be rectified.

This issues with the approval of Chairman(CBDT).

(Vinay Sheel Gautam)
JCIT (OSD) (ITA-I)
Telefax: 011-23093070
E-mail: vinaysheel.gautam@gov.in

Copy to:-

The Pr. CCIT(Exemptions), New Delhi.

From paras 2 and 3 of the above Circular, we find that the assessee is required to furnish the return of income within time allowed u/s 139 and not u/s 139(1) of the Act. Further, CBDT has directed to rectify the demands raised on the impugned issue.

9. Thus, in view of the above discussion and CBDT Circular No. F.No.173/193/2019-ITA-I dated 23rd April 2019 and in the absence of any contrary material brought on record by the Revenue, we do not find any

merit in the ground of appeal taken by the Revenue. Accordingly, the solitary ground raised by the Revenue is dismissed.

10. In the result, the appeal of the Revenue is dismissed.

CO No. 45/PUN/2025 by the assessee.

11. The assessee has raised the following grounds of cross objection :

- “1. Cross objector objects the grounds raised by the Revenue and supports the Hon'ble CIT(A) order as Return is filed u/s 139, Cross objector prays for dismissing departments Appeal.
2. Cross objector Prays for allowing Assessee's claim applying section 10(23C)(iii)(ab) as per finding given by CIT(A) as trust is substantially Financed by Government (71% of Gross Receipts).
3. Without prejudice above. Cross objector prays for Computation of Income after allowing deduction for expenses.
4. CIT(A) has erred in not holding the order of AO as invalid, Void and bad in law having passed without draft assessment order. Appellant Pray for cancellation of AOs Order.
5. Cross objector denied Liability u/s 234.
6. Cross objector prays to add, alter, amend, modify and/or withdraw the Grounds, as the occasion demands, during the Appeal proceedings.
7. Cross objector Prays for condition of small delay, as was under wrong impression of Time limit of 60 days as amended for filing Appeal (60 days from the end of the month in which order is passed).”

12. Since, we have dismissed the appeal of the Revenue vide our above order of even date, the Cross Objection raised by the assessee becomes infructuous and as such dismissed.

13. In the result, the appeal filed by the Revenue and the Cross Objection filed by the assessee are dismissed.

Order pronounced in the open court on 30th January, 2026.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 30th January, 2026.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार/ Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune