

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI “H(SMC)” BENCH, MUMBAI  
BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER AND  
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER  
ITA No. 8624/MUM/2025(AY: 2023-24)**

Shree Kutchi Lal Rameshwar Ashram and Annakshetra Trust 35/1028, Shyadri CHSL, DattMandir Road, Pant Nagar, Ghatkpar East, Mumbai-400075.	<b>vs.</b>	Income Exem. Ward 2(3), Income Tax Appellate Tribunal, Maharishi Karve Road, Mumbai-400020.
<b>PAN/GIR No:AAATK0199C</b>		
(Appellant)		(Respondent)

<b>Appellant by</b>	Shri KiritSheth
<b>Respondent by</b>	Shri PravinSalunkhe, Sr. DR
<b>Date of Hearing</b>	03.02.2026
<b>Date of Pronouncement</b>	09.02.2026

**ORDER**

**PER VIKRAM SINGH YADAV, AM:**

The present appeal filed by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, ‘Act’) by the learned Commissioner of Income-Tax, National Faceless Appeal Centre[in short, ‘CIT(A), NFAC’], Delhi, dated 09.12.2025 for the Assessment Year 2023-24.

2. The grounds of appeal raised by the assessee read as under:

*“1. The ld. Addl CIT (A) has erred in holding that no fresh claim can be made before the first appellate authority in absence of any Revised Return filed by the appellant. Your appellant respectfully*

*submits that the first appellate authority has the power to entertain a fresh claim and this power should have been exercised in the present case.*

*2. Neither the first appellate authority nor the Id. AO during the assessment proceedings u/s 143 (2) has recorded any adverse findings as regards the income earned and applied during the previous year. Your appellant respectfully submits that excess of income over expenditure i.e. Rs. 48,79,637 is less than 15 percent of gross receipts and hence this excess amount, to be applied for charitable and religious purposes, should be treated as exempt.*

*3. The Id. Addl/Joint CIT (A) has erred in not allowing the appellants request for personal hearing through video conferencing so as to make his oral submissions in present case. Your appellant respectfully submits that the denial of personal hearing through video conferencing is not only a violation of the principle of natural justice but is also a violation of para 13 (2) read with para 13 (3) of e Appeals Scheme, 2023 which is notified u/s. 246 (5) of the IT Act. Consequently, the impugned order is unsustainable.”*

3. During the course of hearing, the Id. AR submitted that the assessee trust is registered u/s. 12A of the Act and for the year under consideration, it had received gross receipts of Rs. 7,48,02,632/- and has applied Rs. 6,99,22,995/- for various charitable and religious purposes and the remaining amount of Rs. 48,79,637/- which is less than 15% of the gross income was accumulated and set apart for exemption u/s. 11(1)(a) of the Act. It was submitted that the assessee while filing the return of income has made an inadvertent error and did not report the amount which was accumulated and set apart for application to charitable or religious purposes. Even in the tax audit

report, the auditor had incorrectly mentioned Nil while reporting against clause 31(xxi) of Form 10B of the Act. It was submitted that the assessee fulfills all requisite conditions for claiming exemption u/s. 11 of the Act and the claim should not be disallowed on account of inadvertent error in filing ITR and in-proper reporting in Form 10B of the Act. It was submitted that there was no provision to file revised Form 10B. However, the auditor has given her sworn affidavit dated 27.07.2025 admitting the mistake which has crept- in while reporting in Form 10B and certifying the correct position in terms of the actual numbers so reported by the assessee. It was submitted that the assessment proceedings were also subsequently completed u/s. 143(3) of the Act and there is no such dispute that the assessee is not eligible for exemption u/s. 11 of the Act and infact exemption It was submitted that it was only on receipt of the assessment order wherein the AO has taken into consideration the income as per the intimation issued u/s. 143(1), the assessee realized that the said adjustment has happened in terms of the processing of return u/s. 143(1) of the Act and thereafter the assessee carried the matter in appeal before the Id. CIT(A). It was submitted that the Id. CIT(A) has relied on the decision of the Hon'ble Supreme Court in case of Goetze (India) Ltd. v. CIT and has held that since the assessee has not made the claim in ITR and Form 10B and the same cannot be allowed by the AO and the appeal of the assessee has been dismissed. It was submitted that the decision of the Hon'ble Supreme Court in case of Goetze (India) is in respect of the powers of the AO to entertain fresh claim other than by filing the revised return of income. However, in this case, given that all necessary facts are on record and are not in dispute, it is clear a legal claim which the assessee has raised before the Id. CIT(A) which he has all the powers to admit and adjudicate, however, it has been summarily dismissed by the CIT(A). It was submitted that the assessee has also requested for

personal hearing through video conferencing to explain the aforesaid position, however, the same was also not granted by the Id CIT(A). It was accordingly submitted that the necessary relief be provided to the assessee by allowing the amount set apart for utilization for charitable purposes and in support reliance was placed on the decisions of Hon'ble Bombay High Court in Case of CIT vs. Pruthvi Brokers & Shareholders [2012] 23 taxmann.com 23(Bom.), Sesa Goa Ltd. vs. Additional Commissioner of Income-Tax [2020] 117taxmann.com 548 (Bom) and Halliburton Technology India (P.) Ltd. vs. Assistant Commissioner of Income-Tax [2025] 181 taxmann.com 685 (Bom).

4. The Id. DR has been heard who has relied on the order passed by the Id. CIT(A).

5. We have heard the rival contentions and perused the material available on record. We find that where there is no dispute that the assessee is a registered trust u/s 12A and has been allowed exemption u/s 11 by the AO and where all material facts are emanating from the records in terms of gross receipts and amount accumulated/set-apart for charitable and religious purposes being less than 15% of gross receipts and the assessee makes a claim before the Id CIT(A) in terms of allowing the benefit of accumulation in terms of section 11(1)(a), the Id CIT(A) has all the powers to admit and adjudicate the said claim, being a legal claim. As far as the decision of Hon'ble Supreme Court in case of Goetze (India) is concerned, the same doesn't restrict the appellate authority and in the instant case, the Id CIT(A) in entertaining the fresh legal claim so raised by the assessee. Further, various decisions relied upon by the assessee as so rendered by the Hon'ble Jurisdictional High Court supports the case of the assessee. In light of the same, we set-aside the matter to the file of the Id CIT(A) to examine the said claim of

the assessee as per law after providing reasonable opportunity to the assessee.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order is pronounced on 09.02.2026

Sd/-

**(SANDEEP SINGH KARHAIL)**  
**JUDICIAL MEMBER**

Sd/-

**(VIKRAM SINGH YADAV)**  
**ACCOUNTANT MEMBER**

Anandi.Nambi(Steno)  
MUMBAI

Date: 09.02.2026

**Copy of the Order forwarded to:**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order

Assistant Registrar  
ITAT, MUMBAI