

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

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2536/PUN/2025
निर्धारण वर्ष / Assessment Year : 2020-21

Asstt. Commissioner of Income Tax (Exemptions), Circle-Pune	Vs.	Shivai Vidya Prasarak Mandal, Shivai Circle, Pokharam Road No. 1, Shivai Nagar, Jekegram S.O., Thane-400606 PAN : AAJTS6222P
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Tanmay Milind Phadke
Department by :	Shri Aviyogi Ambadkar
Date of hearing :	14-01-2026
Date of Pronouncement :	16-02-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the Revenue is directed against the order dated 06.08.2025 of the Ld. Additional/Joint Commissioner of Income Tax (Appeals)-5, Kolkata [**"Addl./JCIT(A)"**] pertaining to Assessment Year (**"AY"**) 2020-21.

2. Briefly stated, the facts of the case are that the assessee is a registered charitable trust and engaged in carrying out educational activities. It is registered u/s 12A/12AA of the Income Tax Act, 1961 (**the "Act"**). For AY 2020-21, the assessee filed its return of income on 30.03.2021 u/s 139 of the Act declaring taxable income at Rs.Nil after claiming exemption u/s 11 of the Act. The assessee also filed Form 10B on 30.03.2021 along with the return of income. The return of income was processed u/s 143(1) of the Act vide intimation order passed on 24.12.2021. The Central Processing Center/the Ld. Assessing Officer (**"CPC/AO"**) denied the claim of exemption u/s 11 of the Act without

assigning any reason for such denial and considered the gross income of Rs.5,60,34,363/- as taxable income without considering any expenses. As no specific reason for denial of claim of exemption has been assigned by the Ld. CPC/AO it is alleged that the same might be on account of the delay in filing of Form 10B.

3. Aggrieved by such intimation order, the assessee filed an appeal before the Ld. Addl./JCIT(A). The appeal was filed with a delay of 558 days which was condoned by the Ld. Addl./JCIT(A). The Ld. Addl./JCIT(A) allowed the appeal of the assessee holding that the assessee is entitled for exemption u/s 11 of the Act and directed the Ld. CPC/AO to delete the addition made in intimation u/s 143(1) of the Act. The relevant findings and observations of the Ld. Addl./JCIT(A) is reproduced below :

“5.3 All the grounds of appeal raised by the appellant are against the action of the CPC denying the claim of exemption u/s 11 of the I.T. Act and also not allowing deduction on account of revenue and capital expenses incurred by it. Examining the Intimation u/s 143(1), it is noted that the exemption u/s 11 was denied due to the reason that audit report in Form 10B was filed after the due date as required as per the provisions of section 12A(1)(b) of the I.T. Act. The appellant claimed that AY2020-21 was the first year from which the relevant section was amended requiring filing of Form 10B on or before one month prior to the due date of filing return of income specified in sec. 139(1) of the Act. Before such amendment, Form 10B was required to be filed along with the return of income. The appellant claimed that they were not aware of the new amendment and therefore filed Form 10B along with the return of income. The appellant also raised the ground that as per proviso below section 143(1)(a), CPC is required to issue a prior intimation to the assessee before carrying out any adjustment to returned income as per the said sub-section. However, no such prior intimation was given to it. Therefore, adjustment made u/s 143(1) was bad in law.

5.4 The issue has been examined. Intimation u/s 143(1) reveals that the exemption claimed u/s 11 was denied due to delay in submission of Form 10B. Although CPC has not mentioned as to under which sub-clause of section 143(1)(a) of the Act, the impugned adjustment was made, but it seems that the same was made as per sub-clause (ii) which states – “an incorrect claim, if such incorrect claim is apparent from any information in the return”. To verify appellant’s claim that no prior intimation was given to it, appellant’s profile in e-filing/CPC.2 portal was examined. It was noted that appellant’s claim was correct and no prior intimation was given by CPC before carrying out the impugned adjustment u/s 143(1)(a) of the Act. In view of the same, the adjustment in the form of denial of exemption u/s 11 is unjustified and held to be bad in law. It is directed that exemption u/s 11 of the Act be allowed if other conditions vis-à-vis provisions contained in section 143(1)(a) are satisfied and the addition made in Intimation u/s 143(1) be deleted. These grounds of appeal are therefore allowed. As regard charging of interest u/s 234A, 234B and 234C, it is to be stated that such interest are mandatory and consequential on determination of assessed income. If after allowing exemption u/s 11, taxable income becomes nil, question of charging of such interest does not arise. This ground is therefore allowed for statistical purposes only.”

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

- “1. *On facts and circumstance of the case, the Ld. Addl./Jt. Commissioner of Income Tax (Appeals) [hereinafter Addl./Jt. CIT(A) in short] erred in deleting the adjustments made to the total income under section 143(1) of the Act [hereinafter I.T. Act in short] by accepting the claim of the assessee that prior intimation was not given before making adjustments under section 143(1) of the Act thereby solely relying on assessee's claim and the absence of proof of intimation on the CPC-2 portal without calling for the clarification from the CPC or the Systems Directorate for such absence.*
2. *The appellant craves leave to add, alter, amend or omit any or all the grounds of appeal.”*

5. The Ld. DR strongly supported the order of the Ld. CPC/AO and submitted that since the audit report in Form 10B was belatedly filed by the assessee, the assessee's claim of deduction has rightly been denied by the Ld. CPC/AO. He submitted that the Ld. Addl./JCIT(A) was not justified in allowing the appeal of the assessee for the reason that prior intimation was not given to the assessee before making adjustment u/s 143(1) of the Act solely relying on the assessee's claim without calling for any clarification from the Ld. CPC/AO. He, therefore, submitted that the order of the Ld. Addl./JCIT(A) should be set aside and that of the Ld. CPC/AO be restored.

6. The Ld. AR, on the other hand, submitted that though the Ld. Addl./JCIT(A) has allowed the assessee's appeal on the ground that no prior intimation was given to the assessee by the Ld. CPC/AO before making adjustment, nonetheless, the impugned issue is covered in favour of the assessee by the catena of decisions of various Tribunals including the Pune Bench of the Tribunal wherein the assessee's claim of exemption u/s 11 has been allowed even if Form 10B has been filed belatedly. The Ld. AR submitted that both the return of income and Form 10B were duly filed by the assessee prior to passing of the intimation order u/s 143(1) of the Act and hence the Ld. CPC/AO is not justified in denying the assessee's claim of exemption u/s 11 of the Act. He further contended that the conditions of filing of Form 10B for availing exemption u/s 11 are only directory in nature and not a mandatory requirement. In support thereof, the Ld. AR relied on the following decisions :

- i. Shri Ganadhipati Gandharacharya Kuntiusagar Vidya Sodh Sansthan Vs. ITO in ITA Nos. 2023 to 2026/PUN/2025, order dated 09.12.2025;
- ii. Sahaj Seva Trust Vs. ITO (Exemption) in ITA No. 541/PUN/2025, order dated 06.05.2025;
- iii. Masoomeen Education Society Vs. CIT(A) in ITA No. 732/PUN/2025, order dated 10.10.2025 and
- iv. Kedar Nath Saraf Charity Trust Vs. DDIT (2024) 161 taxmann.com 671 (Kolkata-Trib.).

7. We have heard the Ld. Representatives of the parties and perused the material on record and various judicial precedents cited by the Ld. AR as well as the paper book filed by the Ld. AR on behalf of the assessee. It is the case of the assessee that the Ld. CPC/AO had denied its claim of exemption u/s 11 vide intimation order passed u/s 143(1) of the Act allegedly on account of late filing of audit report in Form 10B for the relevant AY 2020-21 under consideration. The Ld. Addl./JCIT(A) has allowed the assessee's claim of exemption u/s 11 directing the Ld. AO to delete the additions made in the intimation order for the reasons already reproduced in the preceding paragraphs. Undisputedly, the assessee filed return of income for AY 2020-21 on 30.03.2021 for the AY 2020-21. Form 10B was also filed on the same day i.e. on 30.03.2021. The intimation order u/s 143(1) of the Act was passed on 24.12.2021. It is thus evident that Form 10B was filed much prior to processing of return of income by the Ld. CPC/AO. Form 10B was duly available before the Ld.CPC/AO at the time of passing of intimation order u/s 143(1) of the Act while denying the assessee's claim of exemption u/s 11 of the Act. Before us, drawing support of the decisions (supra), the Ld. AR has submitted that the assessee is eligible for its claim of exemption u/s 11 of the Act.

8. We have perused the various decisions (supra) relied upon the Ld. AR in support of its claim and find that under the similar set of facts the Co-ordinate Bench(es) of the Tribunal have allowed the claim of exemption u/s 11 of the Act to the assessee. We find an identical issue had come up before the Pune Bench of the Tribunal in the case of Shri Ganadhipati Gandharacharya Kuntiusagar Vidya Sodh Sansthan Vs. ITO in ITA Nos. 2023 to 2026/PUN/2025, order dated 09.12.2025 wherein the assessee's

claim of exemption u/s 11 of the Act has been allowed by the Tribunal observing as under :

"9. We have heard the Ld. Representatives of the parties and perused the material available on record as well as the paper book filed by the Ld. AR on behalf of the assessee. We have also perused the judicial precedents cited before us. We find that the Ld. AO while passing the intimation order u/s 143(1) of the Act has denied the assessee's claim of exemption u/s 11 of the Act on account of late filing of the return of income and the audit report in Form 10B which was due to be filed by 31.10.2018 for the relevant AY 2018-19. The Ld. Addl./JCIT(A) upheld the action of the Ld. AO for the reasons already reproduced in the preceding paragraphs. Undisputedly, the assessee filed the return for the AY 2018-19 on 12.01.2019. Form 10B was filed on 07.01.2019. The intimation order u/s 143(1) of the Act was passed on 04.03.2020. Thus, in the instant case, although the return has been filed belatedly but Form 10B was filed before the processing of return. It is thus evident that Form 10B was duly available before the Ld. AO at the time of passing intimation order u/s 143(1) of the Act denying the claim of the assessee u/s 11 of the Act. Before us, drawing support from the decision(s) (supra), the Ld. AR has contended that filing of Form 10B for claiming exemption u/s 11 is not a mandatory requirement but only directory in nature and therefore even if Form 10B is furnished belatedly, the claim of exemption u/s 11 should be granted to the assessee.

10. We have perused the various decisions (supra) relied by the Ld. AR in support of his above contention and find that the Courts/Tribunals under the similar set of facts have allowed the claim of exemption u/s 11 of the Act to the assessee. We find an identical issue had come up before the Pune Bench of the Tribunal in the case of Indian Medical Association Pune Branch Vs. DCIT in ITA No. 767/PUN/2025 wherein the Tribunal vide its order dated 16.06.2025 allowed the assessee's claim of exemption u/s 11 of the Act by observing as under :

"7. We have heard the rival contentions and perused the record placed before us. Assessee has been denied benefit of exemption w/s.11 of the Act for delay in filing the return as well as delay in uploading the Audit Report on Form 10B. Admittedly, the due date for filing the return for impugned assessment year is 31.12.2021. Return has been filed on 16.02.2022. Last date to file the belated return u/s.139(4) of the Act in 31.03.2022. Thus, assessee has filed valid belated return. Under similar set of facts and circumstances where a belated return has been filed u/s.139(4) of the Act and Audit Report has been furnished after the due date, Coordinate Bench, Kolkata in the case of Bangarh Educational Welfare Trust (supra) has examined the issue in detail and granted relief to the assessee observing as follows:

"8. We have heard the rival contentions and perused the records placed before us. The assessee is a charitable trust established for imparting education to rural areas without any profit motive. It enjoys registration u/s 12AA of the Act granted vide order dated 12.09.2018 effective from A.Y 2018-19 onwards. It claimed benefit ws 11 and 12 of the Act of Rs. 13587109/-. However, CPC while processing w/s 143(1)(a) of the Act denied the said exemption on account of two reasons; firstly the return of income was not filed before due date as prescribed u/s 139(4) of the Act and secondly audit report on Form 108 not uploaded before due date prescribed under the Act. Now, undisputedly in the case of assessee, the return of income is filed on 15.11.2018 and audit report on form 10B e-filed on 30.03.2019. Now, before adverting to the grounds, we would first like to go through the

relevant provisions which have a direct bearing on the issue of requirement of filing of audit report and income tax return by the trust or institutions registered u/s 124 of the Act. Section 124(1)(b) and 12(1)(ba) of the Act reads as follows:

"Conditions for applicability of sections 11 and 12.

124. (1) The provisions of section-11 and section-12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:-

(b) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section-11 and section-12 exceeds the maximum amount which is not chargeable to income-tax in any previous year, the accounts of the trust or institution for that year have been audited by an accountant as defined in the Explanation below sub-section (2) of section-288 48/before the specified date referred to in section-44AB and the person in receipt of the income furnishes by that date) the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed:)

(ba) the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (44) of section-139, within the time allowed under that section.

9. Section 124(1)(ha) of the Act provides that the provisions of section 11 and 12 shall apply in relation to income of any trust or institution if the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (44) of section 139 te within the time allowed under that section. Now, since reference has been made to section 139(44) of the Act and the same is reproduced below:

"S.139(4A) Every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes, or of income being voluntary contributions referred to in sub-clause (ta) of clause (24) of section 2. shall, if the total income in respect of which he is assessable as a representative assessee (the total income for this purpose being computed sunder this Act without giving effect to the provisions of sections 11 and 12) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far may be, apply as if it were a return required to be furnished under sub-section (1).]"

10. Now, going through the provisions to section 139(44) of the Act shows that the assessee is required to file the return as per the provisions of section 139(1) of the Act. Now, perusal of section 139(1) shows that in the case of the assessee which is required to get its account audited, the due date is 30.09.2018 and for AY 2018-19 this date was further extended to 31.10.2018 vide CBDT's order dated 24.09.2018. Now, since the assessee has filed the return on 15.11.2018, it is a belated return. Thus, there remains no dispute to the fact that the return of income filed by the assessee is a belated return which as per section 139(5) of the Act could have been filed latest by 31.03.2019. Now, at this stage, we would like to refer to Circular issued by CBDT on 23.04.2019 giving clarification with regard to time allowed for filing of return of income subsequent to

insertion of clause (ba) in sub-section 1 of section 12A of the Act and the same is reproduced below

F.No. 173/193/2019-ITA-1

Government of India Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

New Delhi, Dated: 23 April, 2019

To

The Pr. DGIT (Systems), New Delhi.

Subject: Clarification with regard to the time allowed for filing of return of income subsequent to the insertion of Clause (ba) in subsection 1 of section 124 of the income-tax Act, 1961.

Sir,

Undersigned is directed to refer to the representation (s) received on above mentioned subject stating that while processing of ITR-7 for the A.Y. 2018-19, in respect of the belated returns filed u/s 139(4) of the Income Tax Act, 1961 (Act). the following is being communicated w/s 143(1)(a) of the Act:-

"As per section 124(1)(ba) of the Income tax Act, 1961 the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (44) of section 139, within the time allowed under that section. Otherwise the exemption u/s-11 ie. sr. no 4(1) and 4 vili in schedule Part BTI is not allowed."

Based on this, exemption is 11 of the Act has been denied to otherwise eligible trust, thereby creating huge demand.

2. In the matter, the memorandum explaining the relevant provisions of the Finance Bill, 2017 reads as under:

"as per the existing provisions of said section, the entities registered under section 12AA are required to file return of income under subsection (4A) of section 139, if the total income without giving effect to 05 Standards & Norms, Legal Series Vol. XII, Issue 1, April 2019 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 124 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 w/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)

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11. From perusal of the above referred circular, we find that in Para 3 of the said circular specifically states that a trust registered is 12AA of the Act, benefit of section 11 shall be available if the return of income is filed within the time allowed w/s 139 of the Act. It further states that orders w/s 143(1)(a) of the Act in those cases in which demand has been raised on this issue may please be rectified. From the circular, we note that an amendment was brought in by insertion of clause (ba) of section 124(1) of the Act from 2018-19 onwards through which one of the requirements for claiming the benefit u/s 11 and 12 of the Act was to file the return of income within time allowed u/s 139(4A) of the Act. It seems that specially for A.Y 2018-19, when the Form IFR-7 was being processed and for such belated return, demand was raised, representations were received from various assessees on this issue. Taking note of this issue, the said CBDT Circular has issued and while dealing with this issue, the returns filed within the time allowed us 139 of the Act have been directed to be accepted for the purpose of considering benefit of deduction w/s 11 of the Act. Now, since only section 139 of the Act has been mentioned and does not specify whether it is about u/s 139(1) of the Act or section 139(5) of the Act, the view beneficial to the assessee needs to be accepted and, since section 139(1) and section 139(5) are part of section 139 only and in this section 139 and sub-section (5) provides the mechanism to file a belated return, therefore, for A.Y 2018-19, even if the assessee files the return before the last date of filing of belated return the same should be treated as due compliance to section 124(1)(ba) of the Act. For the year under appeal, the belated return could have been filed before 31.03.2019, and since the assessee has filed the return on 15.11.2018, therefore, considering the directions of CBDT Circular dated 23.04.2019, which are binding on the Revenue authorities, we are of the view that the assessee has fulfilled the conditions provided under sub-clause (ba) of section

124(1) of the Act and has filed the return of income within the time allowed.

12. Now, the second reason for which lower authorities have denied the deduction u/s 11 of the Act is of filing the belated audit report on form 10B of the Act. Now, clause (b) of section 124(1) of the Act provides for a condition that if the income of a trust exceeds a maximum amount which is not chargeable to tax in the previous year the account have to be audited and the person in receipt of such income furnishes the audit report before the specified date. In the case of the assessee. Form No.10B was to be filed and the relevant rule is rule 17B of the Income Tax Rules which provides that the report of audit of the accounts of a trust or institution which is required to be furnished under Clause (b) of section 124. shall be in Form No. 10B.

13. Now, on perusal of the Form 10B, we notice that the same is required to be submitted electronically, one month prior to the due date of the filing of return of income. Admittedly, in the case in hand, the audit report on form 10B has been uploaded on 30.03.2019 which is even after the date of filing the return of income on 15.11.2018. Now, before us, it has been contended by the Id counsel for the assessee that filing of audit report is directory in nature and even if report is submitted in time before the conclusion of the assessment proceedings, the same needs to be considered. Though the assessee referred to the various decisions, we find it pertinent to refer to the judgment of the Hon'ble Gujarat High Court in the case of Sarvodaya Charitable Trust us. ITO(Exemption) (supra) wherein Para 32 of the said judgment reads as follows:

"32. We may also refer to the decision of this Court in CIT v. Gujarat Oil and Allied Industries Ltd. (1993) 201 ITR 325 (Guj), wherein it is held that 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. In that case, the assessee had not produced the audit report along with the return of income but produced the same before the completion of the assessment. This Court took the view that 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. In the above judgment, Hon'ble Court has held that filing of audit report is directory in nature and its substantial compliance would suffice. The Id. Departmental Representative failed to place before us any other binding precedents of Hon'ble Jurisdictional High Court or the Hon'ble Apex Court. Therefore, considering the ratio laid down in the Hon'ble Gujarat High Court in the case of Sarvodaya Charitable Trust us. ITO(Exemption) (supra), we find that though the audit report has been uploaded after the filing of return of income but the said report has been signed by the auditor on 28.10.2018 and the copy of this report is placed at 40-41 of paper book and the date of audit report is prior to the filing of the return of income, therefore, it is presumed that conducting of audit for preparation of audit report is before e-filing of the return of income but as claimed by the assessee due to technical glitches, the report was uploaded after filing the return of income.

15. Though the Hon'ble Court holds that the report should be considered even filed in the course of assessment proceedings, or before in appellate authority, however, we notice that in the instant case, the case of the assessee was not selected for scrutiny assessment and it was mere processing of return by the computer with the set program. Had it been the case of scrutiny proceeding w/s 143(3) of the Act, the case could have been different. The Id. A.O may had an opportunity to go through the audit report. But still when the issue came before Id. CIT(A) who also possesses co-terminus power with that of A.O and as per section 251(1)(a) of the Act. the Id. CIT(A) in disposing the appeal against order of assessment has the power to confirm, reduce, enhance or annul the assessment, therefore. though, it was not possible to entertain the audit report while processing the return w/s 143(1)(a) of the Act, but the Id. CIT(A) was well within its power to have entertained the said report and examined the same as could have been done by the A.O.

16. We, therefore, in the given facts and circumstances and respectfully following the judgment of Hon'ble Gujarat High Court in the case Sarvodaya Charitable Trust us. ITO(Exemption) (xupra), we are of the considered view that since the case of assessee is for A.Y 2018-19 and CBDT came up with a circular dated 23.04.2019 specially for A.Y 2018-19 providing that return of income to be filed within the time allowed u/s 139 of the Act, the assessee has complied with the conditions provided in sub-clause (b) and (ba) to section 12 and there is no dispute at the end of the revenue authorities that the assessee is carrying on charitable activities, for which it has been granted registration w/s 12A of the Act, the benefit of section 11 and 12 should be given to the assessee and deductions claimed by the assessee are, therefore, allowed. Thus, Ground Nos. 1 to 4 of the assessee are allowed.

17. So far as alternate plea praying that only the net income should have been subjected to tax rather than gross receipts, since we have already allowed the deduction u/s 11 and 12 of the Act to the assessee, this alternate plea becomes academic in nature. Other grounds are general in nature which needs no adjudication"

8 The above decision has subsequently been followed in the case of Debendra and Rohini Memorial Trust (supra) adjudicating similar issue. So far as delay in filing of the Audit Report if available before the Assessing Authority same needs to be considered. For this proposition, we would like to quote the decision of this Coordinate Bench in the case of Sahaj Seva Trust Vs. ITO in ITA No.541/PUN/2025 order dated 06.05.2025. Ld. Departmental Representative failed to controvert the ratio laid down in the above decision by placing any other binding precedent in favour of the Revenue. We therefore respectfully following the decision in the case of Bangarh Educational Welfare Trust (supra) and Sahaj Seva Trust (supra) are inclined to hold that exemption w/s.11 claimed by the assessee deserved to be allowed. Accordingly, effective grounds of appeal raised on merits of the case are allowed."

11. Based on the factual matrix of the case and legal position enumerated above and in view of the decision (supra) of the Co-ordinate Bench of the Pune Tribunal and in the absence of any contrary material brought to our

notice, we hold that the Ld. Addl./JCIT(A) was not justified in rejecting the claim of exemption u/s 11 of the Act on account of delay in filing of return of income as well as delay in uploading the audit report in Form 10B. We, therefore, set aside the order of the Ld. Addl./JCIT(A) and direct the Ld. AO/CPC to allow the claim of exemption u/s 11 of the Act after due verification in accordance with law. The effective grounds of appeal raised by the assessee are accordingly allowed.”

9. Similarly, in the case of Sahaj Seva Trust Vs. ITO (Exemption) in ITA No. 541/PUN/2025, order dated 06.05.2025, the Tribunal allowed the assessee’s claim of exemption u/s 11 of the Act by observing as under :

“2. The only grievance of the assessee is that the benefit of sections 11 and 12 has been denied to the assessee for nonfiling of Form No.10B within the prescribed time limit and that ld.CIT(E) has not considered the Form No.10B filed at the later stage on 02.03.2022 which was filed at the appellate proceedings. It was also submitted that filing of Form No.10B is directory in nature and the same should have been considered by ld.CITA) while deciding the issue.

3. Ld. Departmental Representative supported the orders of the lower authorities.

4. We have heard both the sides and perused the record placed before us. We note that assessee holds valid registration u/s.12A of the Act vide letter dated 13.03.2022, but has filed Form No.10B belatedly on 02.03.2022 and ld.CIT(A) who has also the co-terminus powers to that of ld. AO did not accepted the audit report filed on Form No.10B and denied the benefits of sections 11 and 12 to the assessee.

5. We note that the Coordinate bench, Surat in the case of S.M. K.R. Vashi High School Vs. ITO (Exemption) reported in 157 taxmann.com 702 (ITAT, Surat) has held that even if the Form No.10B could not be uploaded due to some technical error on the income-tax portal, benefit of section 11 could not be denied merely on account of delay in furnishing the audit report. Hon’ble High Court in the case of CIT (Exemption) Anjana Foundation reported in 168 taxmann.com 462 (Gujarat) has held that filing of Form No.10B is a procedural requirement and benefit of section 11 should not be denied for delay in furnishing Form No.10B. Hon’ble Court thus affirmed the view taken by the Tribunal in its order dated 07.02.2023 in ITA No.695/Ahd/2023. We therefore following the ratio laid down in the above referred decisions hold that the assessee holding valid registration u/s.12A of the Act has filed Form No.10B belatedly but during the appeal proceedings itself and filing of such report is directory and not mandatory as held by Hon’ble Courts, therefore, benefit of sections 11 and 12 claimed by the assessee in income-tax return deserves to be allowed. Grounds of appeal raised by the assessee are allowed.”

10. Based on the factual matrix of the case and legal position enumerated above and in view of the decision (supra) of the Co-ordinate Bench of the Pune Tribunal and in the absence of any contrary material brought to our notice by the Revenue, we are inclined to agree with the contention of the assessee that the assessee is eligible for claim of exemption u/s 11 of the Act. We, therefore, dismiss the solitary ground of

appeal raised by the Revenue and direct the Ld. CPC/AO to allow the assessee's claim of exemption u/s 11 after due verification in accordance with law.

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

Order pronounced in the open court on 16th February, 2026.

Sd/-
(Manish Borad)
ACCOUNTANT MEMBER

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 16th February, 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