

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.705/PUN/2025
निर्धारण वर्ष / Assessment Year : 2017-18

Patan Education Society, Shikka Mension, Patan S.O., Patan, Satara- 415206. PAN : AAATP8412H	Vs.	ITO (Exemption)-1, Pune.
Appellant		Respondent

Assessee by : Shri Prateek Jha &
Shri Prayag Jha
Revenue by : Shri Vinod Pawar
Date of hearing : 08.01.2026
Date of pronouncement : 04.02.2026

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 17.01.2025 passed by Ld. Addl./JCIT(A)-2, Visakhapatnam [‘Ld. CIT(A)’] for the assessment year 2017-18.

2. The appellant has raised the following grounds of appeal :-

“1. *The Ld CIT(A) erred in sustaining the order under section 143(1) without appreciating that the adjustment made was beyond the purview of the provisions of section 143(1).*

2. *The Ld CIT(A) erred in sustaining a demand created under section 143(1) without appreciating that there was no arithmetical error or incorrect claim or any loss claimed or inconsistencies in the return and thus, creating demand under section 143(1) was without jurisdiction and hence bad in law.*
3. *The Ld CIT(A) erred in not allowing the assessee's claim of deduction/exemption of Rs.58,51,640/- though the assessee was registered under section 12A of the I T Act, vide Order dated 24.02.2011 of the then CIT-III, Pune.*
4. *The Ld CIT(A) erred in not appreciating that the Ld ADIT, CPC, had carried out adjustment without allowing the assessee opportunity of being heard/ to respond to the proposed adjustment.*
5. *The Ld CIT(A) erred in not appreciating that the assessee had uploaded the Auditor's Report in Form No. 10B before the ITR was processed under section 143(1) and the provision regarding filing of this report along with ITR was procedure and directory in nature.*
6. *The Ld CIT(A) erred in not appreciating that there was reasonable and sufficient cause for delay in uploading the Auditor's Report on 21.11.2018 and not along with the ITR within the due date under section 139(1).*
7. *The Ld CIT(A) erred in rejecting the assessee's appeal without appreciating that provisions of section 11(2)(c) and section 13(9) were not applicable to the assessee's case.*
8. *The above grounds of appeal are without prejudice to one another.*
9. *The appellant craves leave to furnish Additional Evidence which may be relevant to the above Grounds of Appeal in course of the appeal proceedings.*
10. *The appellant craves leave to amend or alter any of the above Grounds of Appeal or to add new Grounds of Appeal during the course of appeal proceedings.”*

3. Facts of the case, in brief, are that the assessee is a charitable trust duly registered u/s 12A of the IT Act, engaged in the activity of providing educational services by running an English Medium

School at Patan, Distt. Satara. The return of income for the year under consideration i.e. for assessment year 2017-18 was furnished by the assessee trust on 15.12.2017 declaring Nil income after claiming deduction of Rs.58,51,640/- u/s 11 of the IT Act.

4. Since audit report in Form 10B which was required to be filed either before or along with the return of income, for the purposes of claiming exemption u/s 11 of the IT Act, was prepared belatedly i.e. on 21-11-2018 & was e-filed belatedly, i.e. on 19-03-2019 which is more than a year after filing of the Income Tax Return, CPC vide Intimation dated 25.03.2019 processed the above said return u/s 143(1) of the IT Act by denying the deduction u/s 11 of the IT Act as claimed by the assessee and determined income of Rs.58,51,640/- as against the Nil income returned by the assessee.

5. Being aggrieved with the above Intimation dated 25.03.2019 issued by CPC u/s 143(1) of the IT Act, the assessee preferred an appeal before Ld. CIT(A). After considering the reply of the assessee, vide order dated 17.01.2025, Ld. CIT(A) dismissed the appeal filed by the assessee.

6. It is the above order against which the assessee is in appeal before this Tribunal.

7. Ld. AR appearing from the side of the assessee submitted before us that the order passed by Ld. CIT(A) is not justified. Ld. AR submitted before the bench that the filing of audit report in Form 10B is only directory and not mandatory and for this procedural error, deduction u/s 11 cannot be denied. In support of this contention, Ld. AR relied on coordinate bench decision passed in the case of ITO vs. Sir Kikabhai Premchand Trust, [2010] 42 SOT 403 (Mum.) and also relied on the judgement passed by Hon'ble Calcutta High Court in the case of CIT vs. Rai Bahadur Bissesswarlal Motilal Malwasie Trust, [1992] 195 ITR 825 (Calcutta) & also furnished copy of CBDT Circular with regard to condonation of delay.

8. Ld. AR fairly conceded before the bench that for assessment year 2018-19 similar addition was made by CPC by denying the deduction u/s 11 of the IT Act on the ground of belated filing of Audit Report in Form 10B and a coordinate bench of this Tribunal vide order dated 28.06.2023 has already dismissed the appeal filed by the assessee. However, Ld. AR submitted that the facts of the instant case in hand & that of the case of asstt. year 2018-19 are

different. Accordingly, Ld. AR requested before the bench to allow the deduction u/s 11 of the IT Act of Rs.58,51,640/-.

8. Ld. DR appearing from the side of the Revenue relied on the earlier order dated 28-06-2023 passed in ITA No.565/PUN/2023 by this Tribunal in the case of the assessee for asstt. year 2018-19, wherein the deduction u/s 11 was denied on the identical ground of belated preparation of Audit Report in Form 10B & accordingly requested to confirm the orders passed by the subordinate authorities.

9. We have heard Ld. counsels from both the sides and perused the material available on record including the paper book, copy of Form 10B audit report, copy of case laws, copy of circular issued by CBDT for condonation of delay and copy of decision already passed by this Tribunal in the case of the assessee for assessment year 2018-19 wherein the Tribunal dismissed the appeal of the assessee on identical facts.

10. In this regard, we find that in the instant case in hand i.e. for asstt year 2017-18 the claim of deduction u/s 11 of the IT Act of Rs.58,51,640/- was denied by CPC vide Intimation order dated 25-03-2019 issued u/s 143(1) of the IT Act . In this regard, we also

find that prior to making the above addition/ disallowance, CPC communicated to the assessee, vide communication dated 20-11-2018 sent on email patanvalley@yahoo.co.in of the assessee wherein denial of exemption u/s 11 of the IT Act was informed, since audit report in Form 10B was not filed either before or along with the return of income. Admittedly, the audit report in Form 10B was prepared belatedly & was also furnished belatedly & there is no quarrel in this regard, however it is the contention of Ld. AR that the filing of Form 10B audit report is directory & not mandatory. In this regard, we perused the copy of CBDT Circular dated 03-01-2020 which suggests to file condonation application before the Commissioners of Income Tax, however the assessee has not filed any such application.

11. In this regard, we further find that the issue is squarely covered against the assessee by an order passed by coordinate bench of this Tribunal in the case of the assessee in its own case for Asstt Year 2018-19, wherein under identical facts the Tribunal dismissed the appeal filed by the assessee in ITA No.565/PUN/2023 order dated 28.06.2023.

12. We also find that the Tribunal in its earlier order dated 28.06.2023 passed in the case of assessee for assessment year 2018-19 in ITA No.565/PUN/2023 has observed a peculiar fact that the Return of Income was filed on 23-09-2018 by claiming deduction u/s 11 of the IT Act even before the quantification of deductible amount u/s 11 of the IT Act, since the audit report in Form 10B itself was prepared on 21-11-2018 which was the basis of claiming deduction u/s 11 of the IT Act. Therefore, the Tribunal dismissed the appeal of the assessee by observing as under :-

“11. After careful consideration of the case laws as relied on by the ld. AR, we note that the assessee therein filed audit report in Form No. 10B belatedly, but however, obtained before filing the return of income u/s. 139 of the Act. In the present case, as it is evident from impugned order vide submissions made through ground No. 3 at page 4 which clearly shows the audit report itself was dated 21-11-2018 which demonstrates that at the time of filing return of income audit report was not ready, consequently we can say the claim u/s. 11 was not quantified. We note that it is a substantial failure of the assessee in getting the books of account audited before prescribed due date and also before filing the return of income. Thus, there is no dispute, the audit report was not ready before filing return of income, in the absence of which the assessee however, claimed exemption u/s. 11 of the Act without auditor’s quantification. Thus, ratio laid down by the Hon’ble High Court of Calcutta and Gujarat are not applicable and as such, the finding of ITAT, Pune Benches. Therefore, we find no infirmity in the order of NFAC, Delhi in confirming the intimation issued by the CPC, Bangalore u/s. 143(1) of the Act denying the exemption u/s. 11 of the Act. Thus, the grounds raised by the assessee fails and are dismissed.

12. In the result, the appeal of assessee is dismissed.”

13. In this regard it was the contention of LD AR before the bench that the facts of asstt year 2017-18 & that of asstt year 2018-19 are different. However, we do not find any such difference, which is clear from following chart :-

<i>Asstt Year</i>	<i>Return Filed on</i>	<i>Form 10B audit report prepared on</i>
<i>2017-18</i>	<i>15-12-2017</i>	<i>23-11-2018</i>
<i>2018-19</i>	<i>23-09-2018</i>	<i>21-11-2018</i>

14. From the perusal of above chart, it is apparent that in both the cases Audit Report in Form 10B was prepared & filed after filing return of income. Therefore, admittedly the return of income claiming deduction u/s 11 of the IT Act was filed even before quantification of deductible amount u/s 11 of the IT Act in Form 10B audit report. Therefore, there is no change as claimed by the Ld. AR in the facts of both the cases. Since there is no change & the facts & issues of assessment year 2017-18 are identical to the earlier decision passed by a coordinate bench of this Tribunal in the case of the assessee for assessment year 2018-19, the same is

binding on us. Therefore, respectfully following the above decision passed by a coordinate bench of this Tribunal in the case of assessee itself for asstt year 2018-19, we are of the considered opinion that there is no reason to take a different view from that which has already been taken by the Tribunal in assessment year 2018-19.

15. Apart from above, we also find/observe that the quantification of deductible income in Form 10B audit report does not match with the figures mentioned in the return of income for the year under consideration. In this regard, we find that as per CPC's intimation the assessee has claimed in the return of income as per section 11(1) of the IT Act an amount of Rs.8,94,696/- as amount accumulated or set apart for application to charitable or religious purposes to the extent it does not exceed 15% of the income derived , however this amount does not appear in item serial No.3 of Annexure to Form 10B audit report which is specifically meant for reporting of the above amount. For ready reference Form 10B Audit Report furnished by the assessee and relevant page of CPC's Intimation dated 25.03.2019 are reproduced herein below wherein the discrepancy is apparent :-

FORM NO. 10B

[See rule 17B]

Audit report under section 12A(b) of the Income-tax Act, 1961, in the case of charitable or religious trusts or institutions

I have examined the balance sheet of **PATAN EDUCATION SOCIETY PATAN , AAATP8412H** [name and PAN of the trust or institution] as at **31/03/2017** and the Profit and loss account for the year ended on that date which are in agreement with the books of account maintained by the said trust or institution.

I have obtained all the information and explanations which to the best of **my** knowledge and belief were necessary for the purposes of the audit. In **my** opinion, proper books of account have been kept by the head office and the branches of the abovenamed **trust** visited by **me** so far as appears from **my** examination of the books, and proper Returns adequate for the purposes of audit have been received from branches not visited by **me**, subject to the comments given below:

In **my** opinion and to the best of **my** information, and according to information given to **me**, the said accounts give a true and fair view-

(i) in the case of the balance sheet, of the state of affairs of the above named **trust** as at **31/03/2017** and

(ii) in the case of the profit and loss account, of the profit or loss of its accounting year ending on **31/03/2017**

The prescribed particulars are annexed hereto.

Place **SATARA**
Date **23/11/2018**

Name **VIITHAL SHRIPATI JADHAV**
Membership Number **047019**
FRN (Firm Registration Number) **113612W**
Address **V S JADHAV AND CO 156 KES
ARKAR PETH SATARA**

ANNEXURE
Statement of particulars

I. APPLICATION OF INCOME FOR CHARITABLE OR RELIGIOUS PURPOSES

1.	Amount of income of the previous year applied to charitable or religious purposes in India during that year (₹)	5521258				
2.	Whether the trust has exercised the option under clause (2) of the Explanation to section 11(1)? If so, the details of the amount of income deemed to have been applied to charitable or religious purposes in India during the previous year (₹)	No				
3.	Amount of income finally set apart for application to charitable or religious purposes, to the extent it does not exceed 15 per cent of the income derived from property held under trust wholly for such purposes. (₹)	Yes 0				
4.	Amount of income eligible for exemption under section 11(1)(c) (Give details)	Yes <table border="1"> <thead> <tr> <th>Details</th> <th>Amount(₹)</th> </tr> </thead> <tbody> <tr> <td>AMOUNT SPENT ON CHARITABLE PURPOSE</td> <td>5521258</td> </tr> </tbody> </table>	Details	Amount(₹)	AMOUNT SPENT ON CHARITABLE PURPOSE	5521258
Details	Amount(₹)					
AMOUNT SPENT ON CHARITABLE PURPOSE	5521258					
5.	Amount of income, in addition to the amount referred to in item 3 above, accumulated or set apart for specified purposes under section 11(2) (₹)	0				
6.	Whether the amount of income mentioned in item 5 above has been invested or deposited in the manner laid down in section 11(2)(b)? If so, the details thereof.	Yes REGULAR ACCOUNTS				
7.	Whether any part of the income in respect of which an option was exercised under clause (2) of the Explanation to section 11(1) in any earlier year is deemed to be income of the previous year under section 11(1B)? If so, the details thereof (₹)	No				
8.	Whether, during the previous year, any part of income accumulated or set apart for specified purposes under section 11(2) in any earlier year-					
(a)	has been applied for purposes other than charitable or religious purposes or has ceased to be accumulated or set apart for application thereto, or	No				
(b)	has ceased to remain invested in any security referred to in section 11(2)(b)(i) or deposited in any account	No				

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	referred to in section 11(2)(b)(ii) or section 11(2)(b)(iii), or	
(c)	has not been utilised for purposes for which it was accumulated or set apart during the period for which it was to be accumulated or set apart, or in the year immediately following the expiry thereof? If so, the details thereof	No

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II. APPLICATION OR USE OF INCOME OR PROPERTY FOR THE BENEFIT OF PERSONS REFERRED TO IN SECTION 13(3)

1.	Whether any part of the income or property of the trust was lent, or continues to be lent, in the previous year to any person referred to in section 13(3) (hereinafter referred to in this Annexure as such person)? If so, give details of the amount, rate of interest charged and the nature of security, if any.	No
2.	Whether any part of the income or property of the trust was made, or continued to be made, available for the use of any such person during the previous year? If so, give details of the property and the amount of rent or compensation charged, if any.	No
3.	Whether any payment was made to any such person during the previous year by way of salary, allowance or otherwise? If so, give details	No
4.	Whether the services of the trust were made available to any such person during the previous year? If so, give details thereof together with remuneration or compensation received, if any	No
5.	Whether any share, security or other property was purchased by or on behalf of the trust during the previous year from any such person? If so, give details thereof together with the consideration paid	No
6.	Whether any share, security or other property was sold by or on behalf of the trust during the previous year to any such person? If so, give details thereof together with the consideration received	No
7.	Whether any income or property of the trust was diverted during the previous year in favour of any such person? If so, give details thereof together with the amount of income or value of property so diverted	No
8.	Whether the income or property of the trust was used or applied during the previous year for the benefit of any such person in any other manner? If so, give details	No

III. INVESTMENTS HELD AT ANY TIME DURING THE PREVIOUS YEAR(S) IN CONCERNS IN WHICH PERSONS REFERRED TO IN SECTION 13(3) HAVE A SUBSTANTIAL INTEREST

S. No	Name and address of the concern	Where the concern is a company, number and class of shares held	Nominal value of the investment (₹)	Income from the investment (₹)	Whether the amount in col. 4 exceeded 5 per cent of the capital of the concern during the previous year-say, Yes/No
1	0	0	0	0	No
Total					

Place **SATARA**
Date **23/11/2018**

Name **VIITHAL SHRIPATI JADHAV**
Membership Number **047019**
FRN (Firm Registration Number) **113612W**
Address **V S JADHAV AND CO 156 KES
ARKAR PETH SATARA**

Form Filing Details	
Revision/Original	Original
This form has been digitally signed by SATYAJIT VIKRAMSINH PATANKAR having PAN AAYP8397H from IP Address 103.242.237.97 on 2019-03-19 17:14:27.0 .	
Dsc S1 No and issuer 1400865210CN=(n)Code Solutions CA 2014.2.5.4.51=#13133330312e20474e464320496e666f746f776572,STREET=Bodakdev, S G Road, Ahmedabad,ST=Gujarat,2.5.4.17=#1306333830303534,OU=Certifying Authority,O=Gujarat Narmada Valley Fertilizers and Chemicals Limited,C=IN	

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CPC's Intimation dated 25.03.2019

पत्र संदर्भ संख्या Document Identification No.		CPC/1718/A7/1881249035	
स्थायी खाता संख्या PAN:	नाम Name	निर्धारण वर्ष A.Y.	आदेश की तिथि Date of order
AAATP8412H	PATAN EDUCATION SOCIETY PATAN	2017-18	25-03-2019
क्रम संख्या Sl.No.	विवरण देने वाले शीर्ष Reporting Heads	करदाता द्वारा आय विवरण में दिए गये As Provided by Taxpayer in Return of Income	धारा 143(1) के अधीन संगणित As Computed Under Section 143(1)
	(v) AMOUNT ACCUMULATED OR SET APART FOR APPLICATION TO CHARITABLE OR RELIGIOUS PURPOSES TO THE EXTENT IT DOES NOT EXCEED 15 PER CENT OF INCOME DERIVED FROM PROPERTY HELD IN TRUST/INSTITUTION UNDER SECTION 11(1) (a)/ 11(1)(b) [RESTRICTED TO THE MAXIMUM OF 15% OF (2 + 3) ABOVE]	8,94,696	0
	(vi) AMOUNT IN ADDITION TO AMOUNT REFERRED TO IN (IV) ABOVE, ACCUMULATED OR SET APART FOR SPECIFIED PURPOSES IF ALL THE CONDITIONS IN SECTION 11(2) AND 11(5) ARE FULFILLED (FILL OUT SCHEDULE I)	0	0
	(vii) AMOUNT ELIGIBLE FOR EXEMPTION UNDER SECTION 11(1)(c)	0	0
	(a) APPROVAL NUMBER GIVEN BY THE BOARD	0	0
	(b) DATE OF APPROVAL BY BOARD		
	TOTAL [4i+4ii+4iii+4iv+4v+4vi+4vii]	82,69,960	0
5	ADDITIONS		
	(i) INCOME CHARGEABLE UNDER SECTION 11(1B)	0	0
	(ii) INCOME CHARGEABLE UNDER SECTION 11(3)	0	0
	(iii) INCOME IN RESPECT OF WHICH EXEMPTION UNDER SECTION 11 IS NOT AVAILABLE BY VIRTUE OF PROVISIONS OF SECTION 13	0	0
	(a) BEING ANONYMOUS DONATION AT Diii OF SCHEDULE VC TO THE EXTENT APPLIED FOR CHARITABLE PURPOSE	0	0
	iii (b). OTHER THAN (A) ABOVE	0	0
	(iv) INCOME CHARGEABLE UNDER SECTION 12(2)	0	0
	(v) TOTAL(5i + 5ii+5iii+5iiib+5iv]	0	0
6	TOTAL(2+3-4viii+5v)	0	58,51,640
7	AMOUNT ELIGIBLE FOR EXEMPTION UNDER SECTION 10(21), 10(22B), 10(23A), 10(23B), 10(23C)(IV), 10(23C)(V), 10(23C)(VI), 10(23C)(VIA)	0	0
8	AMOUNT ELIGIBLE FOR EXEMPTION UNDER SECTION 10(23C) (IIIAB), 10(23C)(IIIAC),10(23C)(IIIAD),10(23C)(IIIAE) 10(24), 10(46), 10(47),10(23D), 10(23DA)	0	0
9	AMOUNT ELIGIBLE FOR EXEMPTION UNDER ANY CLAUSE, OTHER THAN THOSE AT 8 AND 9, OF SECTION 10	0	0
10	INCOME CHARGEABLE UNDER SECTION 11(3) READ WITH SECTION 10(21)	0	0
11	INCOME CLAIMED/EXEMPT UNDER SECTION 13A OR 13B IN CASE OF A POLITICAL PARTY OR ELECTORAL TRUST(FILL SCHEDULE LA OR ET)	0	0
12	HEADS OF INCOME		
	INCOME NOT FORMING PART OF ITEM NO. 7 & 11 ABOVE		
	(i) INCOME FROM HOUSE PROPERTY [3b of SCHEDULE HP] (ENTER NIL IF LOSS)	0	0

16. Considering the totality of the facts of the case & respectfully following the decision dated 28-06-2023 already passed by the

Tribunal in the case of the assessee for Asstt Year 2018-19 (supra) wherein the denial of deduction u/s 11 of the IT Act was confirmed on identical facts, we do not find any error in the impugned orders passed by the subordinate authorities & accordingly the same are confirmed. Thus, the grounds of appeal raised by the assessee are dismissed.

17. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on this 04th day of February, 2026.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 04th February, 2026.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Addl./JCIT(A)-2, Visakhapatnam.
4. The Pr.CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.