

आयकर अपीलीय अधिकरण  
दिल्ली पीठ "एस एम सी", दिल्ली  
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC", DELHI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
आअसं.244/दिल्ली/2026 (नि.व. 2017-18)  
ITA No.244/DEL/2026 (A.Y.2017-18)

Shri Narayan Jan Kalyan Ewam Gramin Vikas  
Samiti Barnahal Mainpuri,  
Uttar Pradesh, 205261  
PAN: AAOAS-9172-N

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Office [Exemption],  
Ghaziabad, Uttar Pradesh

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/Appellant by : Shri Rajeev Kumar Kulshreshtha, Advocate  
प्रतिवादीद्वारा/Respondent by : Shri Manoj Kumar, Sr. DR  
सुनवाई की तिथि/ Date of hearing : 17/02/2026  
घोषणा की तिथि/ Date of pronouncement : 17/02/2026

आदेश/ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against the order of Additional/Joint Commissioner of Income-tax (Appeals)-1, Nashik (hereinafter referred to as 'the CIT (A)') dated 27.06.2025, for Assessment Year 2017-18.

2. The appeal is time barred by 32 days. The assessee has filed an application for condonation of delay supported by an affidavit citing reasons causing delay in filing of appeal. After perusal of the same, I am satisfied that delay in filing of appeal is not intentional. The delay has been caused for the reasons stated in petition which appears to be bonafide. Thus, delay of 32 days in filing of appeal is condoned and appeal is admitted for decision on merits.

3. Shri Rajeev Kumar Kulshreshtha, appearing on behalf of the assessee submits that the assessee is a society engaged in running educational institutions and social activities. The assessee's application for grant of registration u/s.12A of the Income Tax Act,1961(hereinafter referred to as 'the Act') was rejected by the CIT (Exemption) vide order dated 31.01.2018. Thereafter, registration u/s.12A was granted for five years from AY 2022-23 onwards on the second applications made by the assessee. Admittedly, in the impugned assessment year, the assessee was not eligible for advantage of registration u/s.12A of the Act. Nevertheless, the assessee was eligible for claiming exemption u/s.10(23C)(iiiad) of the Act. The said exemption was denied by the AO. The AO made addition of Rs.15,12,316/- on account of excess of income over expenditure. The assessee carried the issue in appeal before the CIT(A) but remained unsuccessful. Hence, the present appeal.

4. The Id. Counsel for the assessee submits that the assessee has all the relevant material to substantiate its claim of exemption. The assessee can furnish audited books of account, if an opportunity is granted. The Id. Counsel submits that in the immediate preceding assessment year i.e. AY 2016-17, the assessee's claim of exemption u/s.10(23C) (iiiad) of the Act was accepted by the AO in assessment made under section 143(3) of the Act. The Id. AR referred to assessment order dated 26.12.2018 for AY 2016-17 at pages 107 to 109 of the paper book.

5. Per contra, Shri Manoj Kumar representing the department strongly supporting the impugned order submits that the assessee has filed its return of income in ITR-5, whereas, for claiming benefit of exemption u/s.10(23C) of the Act, the assessee was required to file its return of income in ITR-7. The assessee's claim of exemption u/s.10(23C) of the Act cannot be entertained for filing return of income in wrong ITR Form. Further, no credible documentary evidences were

furnished by the assessee before the AO and the CIT(A). Hence, the assessee's claim of exemption u/s.10(23C)(iiiad) of the Act was rejected.

6. Both sides heard, orders of the authorities below examined. The assessee is a society engaged in running educational institutions. For the subsequent assessment years i.e. AY 2022-23 to 2026-27 the Department has granted initial registration u/s.12A of the Act to the assessee, this fact is not in dispute. The short submission of the Counsel for the assessee is that even though the assessee was not registered u/s.12A of the Act in AY 2017-18, the assessee was eligible for claiming exemption u/s.10(23C) of the Act. From perusal of the impugned orders, it emanates that the assessee has failed to furnish relevant complete details and audited accounts for determining assessee's claim of exemption u/s.10(23C)(iiiad) of the Act in the impugned assessment year. The CIT(A) in First Appellate proceedings has further pointed that the return of income has been filed by the assessee in ITR-5 instead of ITR-7 for claiming such exemption. The Id. Counsel for the assessee has prayed for an opportunity to furnish complete details and audited accounts. Considering entire facts of the case, I deem it appropriate to grant one opportunity to the assessee to furnish relevant details and audited accounts before the AO. So that the assessee's claim of exemption u/s.10(23C)(iiiad) of the Act can be reconsider. In so far as infirmity pointed by the CIT(A) in filing of return in ITR-5 instead of ITR-7, it is a procedural defect and the relevant information for claiming exemption u/s.10(23C) of the Act if available on record can be considered by the AO.

7. The assessee shall furnish all the relevant details and audited books of account before the Assessing Officer in support of its claim of exemption

u/s.10(23C)(iiiad) of the Act. The AO after examining the same shall passed the assessment order, in accordance with law.

8. In the result, impugned order is *set aside* and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Tuesday the 17<sup>th</sup> day of February, 2026.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 17/02/2026

NV/-

**प्रतिलिपि अग्रेषितCopy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar) ITAT, DELHI