

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 2047/Bang/2025
Assessment Year : 2016-17

Basaveshwer Devalay English Medium Higher Primary School, Opp Bus Stand, Post Basavan Bagewadi, Dist Bijapur Karnataka – 586 203. PAN: AABAB8933H	Vs.	The Income Tax Officer, Ward – 1 & TPS, Bijapur.
APPELLANT		RESPONDENT

Assessee by	:	None
Revenue by	:	Smt. N. Hemalatha, CIT-DR

Date of Hearing	:	28-01-2026
Date of Pronouncement	:	24-02-2026

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 21/06/2025 in respect of the penalty levied u/s. 271F of the Act for the A.Y. 2016-17 and raised the following grounds.

“1. That the order of Learned Commnr. Of Income.Tax(Appeals), in so far as it against the Appellant is opposed to law, facts, equity, weight and evidence, facts and circumstances of the case

2. That the Learned Commnr.of Income.Tax(Appeals) erred in law and facts in upholding Penalty levied under Sec 271F of I.Tax Act, 1961 for Assessment Year 2016-17, without appreciating the fact that Appellant was not under

obligation to file Return of Income, as income was liable for exemption u/s 10(23C)(iiiab) and without considering our written submission filed during the appeal proceedings.

3. That the Learned Commnr. failed to appreciate the fact that penalty imposed u/s 271 F was not automatic and was subject to consideration u/s 273B, as there was reasonable cause for non-filing of Return of Income.

4. That the Learned Commnr. failed to appreciate that Assessing Officer in original Assessment has allowed exemption u/s 10(23C)(iiiab) and assessed income at 'NIL'.

5. That reliance is placed on judicial precedents including :-

*I Kanhaiya Lal Lalwani vs. ITO
(ITAT Jaipur) ITA No. 95/JP/ 2022
dt. 15.09.2022.*

*ii) Inder Lata Gera, New Delhi
vs. ITO W-54(1), New Delhi
ITA NO. 3273/DEL/3023*

*iii) Sakina Ahmedi Kantawala vs.
ITO W- 1(2)(4), Ahmedabad
ITA No.41/Ahd /2024 dt.28.05.2024*

*iv) DCIT. Central Circle, Ahmedabad
vs. M/s KGN Industries Ltd.
ITA No. 09/ Ahd/2019
Ahmedabad A Bench, dt.7-9-2022*

*v) S Narayan (HUF), Karaikudi
vs DCIT Central Circle, Mysure
ITA No.513/ Bang./2021
ITAT 'C' Bench Bang. dt.28-10-2021*

6. The Appellant prays leave to add, amend, alter any of the grounds of Appeal in the interest of justice and equity.”

2. The brief facts of the case are that the assessee is running a school and the same has been established under the Kudal Sangam Development Board under the control of the Government of Karnataka. The said school has been established solely for the educational purposes and not for profit and therefore its income is exempt u/s. 10(23C)(iiiab) of the Act. Since their income was exempt, they were under the bonafide impression that the assessee need not file the return of income u/s. 139(1) of the Act. The AO

based on the information that the assessee had made huge deposits in their bank accounts had issued notice u/s. 148A(b) of the Act. The assessee filed their reply to the said show cause notice and thereafter the AO made an order u/s. 148A(d) of the Act and simultaneously notice u/s. 148 was issued. Thereafter the assessee filed their return of income and claimed the entire income as exempt u/s. 10(23C)(iiiab) of the Act. Notices u/s. 143(2) as well as u/s. 142(1) were issued, but the assessee had not responded to the notices because of the pressure of work. The AO accepted the return of income filed and no tax liability has been arrived in the said computation. In the said order, the AO had proposed to impose penalties u/s. 271F of the Act for not filing their return of income u/s. 139(1) of the Act. Similarly, penalty u/s. 271(1)(b) of the Act was proposed for the non-compliance to the notices issued u/s. 143(2) as well as u/s. 142(1) of the Act.

3. Subsequently, the AO had issued a notice for levying penalty u/s. 271F of the Act. The assessee submitted their response on 19/03/2024 and 08/05/2024.

4. The assessee submitted their reply and informed that they have not filed their return of income on the belief that they need not file the return of income since their income is less than Rs. 1 crore and exempted u/s. 10(23C)(iiiab) of the Act. The AO not accepted the said submission, had confirmed the penalty u/s. 271F of the Act. As against the said order, the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) also confirmed the levy of penalty u/s. 271F of the Act.

5. The assessee is in appeal before this Tribunal against the said orders of the Ld.CIT(A).

6. At the time of hearing, the Ld.AR submitted that the non-filing of the return of income is not wilful but due to the misunderstanding of the provisions and therefore prayed to delete the penalty levied u/s. 271F of the Act. The Ld.AR further submitted that the penalty is not automatic but it should be based on the reasonableness for not filing the return of income.

The Ld.AR further submitted that the AO had accepted the return of income as such and determined the Nil income which shows that the assessee had not committed any mischief, warranting the levy of penalty u/s. 271F of the Act. The Ld.AR also filed a paper book enclosing the documents as well as the orders of the Coordinated Benches of this Tribunal and prayed to allow the appeal.

7. The Ld.DR relied on the orders of the lower authorities and prayed to dismiss the appeal.

8. We have heard the arguments of both sides and perused the materials available on record.

9. The fact remains that the assessee is entitled for deduction u/s. 10(23C)(iiiab) of the Act which was also accepted by the AO while making the assessment. We have also considered the reasons given by the assessee for the non-filing of the return of income and the subsequent filing of the return. The assessee also explained that they were under the bonafide impression and therefore they have not filed their return of income. In any event, the assessee filed his return of income pursuant to the notice issued u/s. 148 of the Act and explained that the deposits are payments received from the students as fees would not be subjected to tax under the provisions of the Act which fact was also accepted by the AO by passing a Nil assessment order. The said facts would establish the circumstances under which the assessee had not filed their return of income u/s. 139(1) of the Act.

10. We have also perused section 271F of the Act which uses the word “may” for imposing penalty under the said provisions. Therefore the Statute also gave discretionary powers to the authority to impose penalty u/s. 271F of the Act. We have also considered the following orders of the Coordinated Benches of this Tribunal.

- a) ITA No. 252/JP/2020 dated 24/05/2021 in the case of A.N. School Shiksha Samiti vs. JCIT

- b) ITA No. 95/JP/2022 dated 15/09/2022 in the case of Shri Kanhaiya Lal Lalwani vs. ITO
- c) ITA No. 513/Bang/2021 dated 28/12/2021 in the case of Shri S. Narayanan (HUF)

11. The principles laid down by the Coordinated Benches in the above said orders are that a lenient view has to be taken while imposing the penalty u/s. 271F of the Act when the assessee was not having any wilful intention to file the return of income u/s. 139(1) of the Act. We have also perused the Circular No. 14/2015 issued by the CBDT dated 17/08/2015 which speaks about the exemption of tax for the educational institutions existing solely for the educational purposes and not for the purposes of profit. Considering the totality of the facts, we are of the view that the penalty u/s. 271F need not be levied on the assessee. We, therefore set aside the orders of the lower authorities and allow the appeal filed by the assessee.

12. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 24th February, 2026.

Sd/-
(PRASHANT MAHARISHI)
Vice – President

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 24th February, 2026.
/MS /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. DR, ITAT, Bangalore
5. Guard file
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore