

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH AT KOLKATA**

Before

**SHRI GEORGE MATHAN, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No(s).: 1138/KOL/2025
Assessment Year(s): 2017-18**

Shree Mathur Vaishya Jan Hit Parishad	Vs.	Ward-1(3), Exempt
<i>(Appellant)</i>		<i>(Respondent)</i>
PAN: AAAAS4578E		

Appearances:

Assessee represented by : Akshay Ringasia, AR.

Department represented by : Sandeep Lakra, Addl. CIT, Sr. DR.

Date of concluding the hearing : 02-February-2026

Date of pronouncing the order : 26-February-2026

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the Assessee is against the order of the Addl/JCIT(A)- 10, Mumbai [hereinafter referred to as Ld. 'Addl/JCIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2017-18 dated 13.01.2025.

1.1 The Registry has not pointed out any delay in filing of the appeal. However, the assessee has filed an affidavit for condonation of delay of 73 days in filing the appeal before the Tribunal wherein it has been stated that the assessee did not challenge the order of the Ld. JCIT(A) as he had granted partial relief by directing the Assessing Officer to allow the expenses which were wholly and exclusively incurred for earning the receipts, even though the disallowance of deemed application for non-filing of Form No. 9A was upheld. However, it was only upon receipt and reading of the order giving effect to the order of



the Ld. CIT(A) dated 30.03.2025, that the assessee realised that the Assessing Officer had misinterpreted the order of the Ld. JCIT(A) and denied even the partial benefit that had been granted. However, it was also realised that the order of the Ld. JCIT(A) was itself factually and legally erroneous, and that filing an appeal had become necessary not only to correct the misapplication by the assessing officer but also to seek complete relief. The assessee has prayed for condonation of delay of 73 days in submitting the appeal. On going through the affidavit seeking condonation of delay, we are satisfied that the assessee had sufficient cause for the delay, the delay is condoned and the appeal is admitted for adjudication.

2. The Assessee is in appeal before the Tribunal raising the following grounds of appeal:

“1. That the Ld. JCIT(A) erred in law AMD (sic) fact by sustaining the CPC adjustment of making a disallowance of the amount of Rs. 30,37,464/- being the amount spent for charitable purposes, as the Form no. 9A was not filed before the due date.

2. That die Ld. JCIT(A) erred in law AMD fact by sustaining the CPC adjustment under 143(1) without issuing any intimation for making such adjustment as required by the proviso to section 143(1).

3. That the CPC erred in law AMD fact by making adjustment without giving benefit of expenses already incurred for charitable purposes AMD subjecting the gross revenue to tax instead.

4. That the Ld. JCIT(A) erred in law by directing the AO to enlarge the scope of adjustment under 143(1) by directing him to seek additional evidences for allowing benefit of expenses incurred beyond the scope of appeal effect AMD powers of JCIT(A) under section 250.

5. That the appellant craves the leave of Hon'ble Bench to add. DLEETE OR modify any grounds of appeal.”

3. Brief facts of the case are that the assessee is a charitable Trust registered u/s 12A of the Act vide order dated 24.10.1973. The assessee Trust is engaged in charitable activities namely medical and educational



activities. The assessee had e-filed its return of income for AY 2017-18 declaring 'NIL' income. Further, the assessee had filed the required audit report on Form No. 10B certifying application of income for a sum of ₹30,37,464/- for charitable purposes. While processing the return, the CPC disallowed the claim of exemption of ₹30,37,464/- u/s 11 of the Act and assessed the same as total income of the assessee vide intimation order u/s 143(1) of the Act. Aggrieved with the intimation issued, the assessee filed an appeal before the Ld. Addl/JCIT(A) who, vide order dated 13.01.2025, partly allowed the appeal of the assessee directing the Assessing Officer to allow the expense which were wholly and exclusively incurred for earning the receipt.

4. Aggrieved with the order of the Ld. CIT(A), the Assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. In the written submission filed, it was submitted by the Ld. AR that the disallowance of ₹ 30,37,464/- under section 143(1) of the Act is beyond the scope of section 143(1) of the Act and the intimation is liable to be quashed. It is also prayed that the the Ld. CIT(A)'s direction for verification exceeds the power under section 250 of the Act. It is stated that as the actual expenditure exists and was accepted in principle by the Ld. CIT(A), the AO failed to give effect and therefore, the maximum disallowance is to be restricted to ₹ 5,885/- being the amount calculated under section 11(2) for accumulation. It is stated that the appeal may be allowed in full and the impugned order may be set aside.

6. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). While



processing the return of income only the adjustment on account of an incorrect claim, if such incorrect claim is apparent from any information in the return can be added. The assessee had claimed application of income of ₹ 30,37,464/- as deemed application for which Form No. 9A was filed late. However, the same was available at the time of processing of the return of income. The filing of form within the due date is held to be directive and not mandatory and as the same was available at the time of processing of the return, the deemed application as mentioned in Form No. 9A could not have been disregarded. Under clause (a) to sub-section (1) to section 143 of the Act, only the *prima facie* adjustments as mentioned therein can be made and denial of claim under section 11 is not something which is *prima facie* apparent but requires examination of the document and the issue and therefore, the same could not have been disallowed under clause (a) to sub-section (1) of section 143 of the Act. In any case, only the net income could have been assessed in the course of scrutiny assessment and the expenses claimed, could not have been *prima facie* disallowed. The appeal relates to AY 2017-18 and the disallowance made could not have been made u/s 143(1) of the Act. Accordingly, the intimation issued u/s 143(1) of the Act is hereby quashed as the issue of acceptance of delayed Form No. 9A is a debatable issue and the consequential disallowance of exemption under section 11 is not covered under the *prima facie* adjustments. In any case, the Ld. CIT(A) did not have the power to remand the case in relation to the intimation issued for verification of the expenses. Accordingly, the Ground Nos. 1, 2, 3 and 4 of the appeal are allowed.

7. Ground No. 5 is general in nature and does not require any separate adjudication.



8. In the result, the appeal filed by the Assessee is allowed.

Order pronounced in the open Court on 26th February, 2026.

Sd/-

[George Mathan]

Judicial Member

Sd/-

[Rakesh Mishra]

Accountant Member

Dated: 26.02.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Shree Mathur Vaishya Jan Hit Parishad, 35, Nalini Seth Road, Kolkata, West Bengal, 700007.**
2. **Ward-1(3),Exempt.**
3. Addl/JCIT(A)-10, Mumbai.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata