

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

ITA No. 9324/MUM/2025 (AY: 2018-19)
(Physical hearing)

The Bombay Hindu Burning and Burial Grounds Committee Ground Floor, Maharishi Karve Road, Mumbai – 400002. [PAN No. AAATT4942L]	Vs	ITO, EXEM Ward 2(4), Cumballa Hill, Mumbai
Appellant / assessee		Respondent / Revenue

Assessee by	Shri Navin Gandhi
Revenue by	Shri Ujjwal Kumar – SR. DR
Date of hearing	09.03.2026
Date of pronouncement	11.03.2026

Order under Section 254(1) of Income Tax Act

PER: PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals), ADDL/JCIT (A), Varanasi (in short, the Id. CIT(A)) dated 31/10/2025 for the Assessment Year (AY) 2018-19. The assessee has raised following grounds of appeal:

"1. Ground No 1

The Hon'ble CIT(A) NFAC, has erred in rejecting the petition for condonation of delay & Dismissing the appeal as time barred without taking into consideration the extension of time allowed by The Taxation & Other Laws (Relaxation & Amendment of Certain Provisions) Act 2020 upto 31-05-2021 & ignoring the fact that the appeal was filed on 24-05-2021 before the last extension prescribed under TOLA i.e by 31-05-2021.

Relief Claimed

The appellant trust humbly request you honor to condone the delay and consider the fact that the appeal was filed on 24-05-2021 before the last



extended date mandated by the TOLA of 31-05-2021 and instruct the Hon'ble CIT(A) to decide the appeal on merits.

II. Ground No 2

Without Prejudice to Ground No 1 Above, the Disallowance of Expenses while processing the return of income u/s 143(1) of Rs 3549591/- incurred by the Trust for its objects is invalid and bad in law as

a) the said disallowance is not covered by the six permitted adjustment prescribed u/s 143(1)(a).

b) The said disallowance of expenses which are exclusively and necessarily incurred for the object of the trust is against the real income theory.

Relief Claimed

The appellant trust, requests your good honor to quash the adjustment not permitted u/s 143(1)(a).

III. Ground No 3

Without Prejudice to Ground No 1 Above, The Ld.AO [Deputy Commissioner, Income Tax (CPC)], while processing the return u/s 143(1) has erred in considering the trust to be registered u/s 10(23C) instead of the fact that the trust is registered u/s 12A vide registration no. TR674B.

Relief Claimed

The appellant trust, request your good honor to hold the trust to be registered u/s 12A."

2. Rival submissions of both the parties have been heard and record perused.

The learned Authorized Representative (AR) of the assessee submits that the assessee is a charitable trust registered under Bombay Charitable Trust Act, 1950 and also having registration under section 12AA/12AB. The main object of the trust is to provide facilities to perform last rites to human body after death at Chandanwadi, Marine Lines and Banganga Crematorium Ground, Walkeshwar, Mumbai – 400006. The assessee trust is in existence since 1915 and providing these services continuously for more than 100



years. While filing return for A.Y. 2018-19, due to inadvertence, the status of the trust was shown as section 10(23C) instead of 12AA. The return was processed by CPC and intimation order dated 10/11/2019 was issued, wherein the deduction of Rs. 35,49,591/- on account of various expenses were not allowed. The expenses of assessee trust is more than its gross receipt. The only basis for not allowing deduction of expenses is wrong copying/mentioning the provision of Section 10(23C) instead of 12AA. The assessee filed an application under section 154 before the CPC in December, 2019. Such application was dismissed/rejected on 02.01.2020. The assessee again filed second application for seeking rectification in the order. However, the same was again not allowed. In the meantime, there was a severe Covid-19 pandemic worldwide. The assessee filed appeal before Id. CIT(A) during Covid pandemic. First appeal before Id. CIT(A) filed on 24/05/2021. There was no intentional or deliberate delay. However, Id. CIT(A) dismissed the appeal of assessee by taking view that there was a delay of 531 days in filing appeal. The Id. AR of the assessee submits even at the worst, if it is considered that there was delay after rejection of applications under section 154, it was only of 70/80 days and that assessee was pursuing alternate remedy under bonafide belief. The delay before Id. CIT(A) may be condoned and matter may be restored back to the file of Id. CIT(A) to decide the appeal on merit. The Id. AR of the assessee submits that the assessee fulfilled all the condition to avail the benefit of application of income under section 11/12 of the Income Tax Act, 1961 ('the Act').



3. On the other hand, the Id. Senior Departmental Representative (SR. DR) for the revenue supported the order of Id. CIT(A).
4. We have considered the rival submissions of both the parties and have gone through the order of Id. CIT(A) carefully. We find that there is very limited dispute in the present appeal. The assessee while filing return of income, due to inadvertence selected inappropriate provision in showing the status of assessee and mentioned Section 10(23C) instead of 12AA. The CPC not allowed the application of income under section 11/12, thereby disallowing all the expenses. It is matter of record that assessee filed application under section 154. The application of assessee under section 154 of the Act was dismissed on 02/01/2020. Though, before us, the Id. AR of the assessee vehemently submitted that after dismissal of first application under section 154, the assessee filed second application under section 154. However, copy of such application is not available on record. Facts remains the same that after dismissal of application under section 154, the assessee filed appeal before the Id. CIT(A) on 24.05.2021. Considering the overall facts of the case, we find that assessee was bonafidely pursuing alternative remedy in filing application under section 154. Thus, there was no intentional or deliberate delay in filing appeal before Id. CIT(A). Even otherwise, it is a matter of fact that from 15/03/2020, there was a worldwide severe covid-19 pandemic. Hon'ble Apex Court in the *Suo Moto Writ Petition No. 3 of 2020* has already condoned the delay for taking recourse of law upto 25/02/2022



and further 90 days grace period was also allowed. Thus, delay in filing appeal before Id. CIT(A) is condoned.

5. On merit, we find that case of assessee was not considered on merit, therefore, accepting the plea of assessee that due to inadvertence, the assessee opted/selected inappropriate section while filing return of income, therefore, the alternative claim of the assessee is accepted and the matter is restored back to the file of jurisdictional Assessing Officer to consider/correct the appropriate section as Section 12AA instead of 10(23C) and allow relief to the assessee on verification of facts. In the result, the grounds of appeal raised by the assessee are allowed for statistical purpose.
6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 11.03.2026

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Mumbai, Dated: 11.03.2026
Karishma J. Pawar, SR. PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai