

**IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH :: NAGPUR**

**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER**

**ITA No. 326/NAG/2025
(Assessment Year : 2020-21)**

Manav Seva Lok Kalyan Mahasangh, H.No. 32, Teka Naka, Asi Nagar, Nagpur. PAN : AABTM 1643 C	vs	DCIT/ACIT, Circle Exemption, Nagpur
Assessee		Respondent

Assessee by	:	Shri Kapil Hirani, Advocate
Revenue by	:	Shri Pankaj Kumar, CIT-DR
Date of hearing	:	25.02.2026
Date of pronouncement	:	26.03.2026

PER KHETTRA MOHAN ROY, AM:

This appeal by the assessee is directed against the order of Ld.ADDL/JCIT (Appeals), Gurugram (for short, "**CIT(A)**"), dated 06/03/2025 passed under section 250 of the Income Tax Act, 1961 (for short, "**Act**") which is arising out of intimation u/s. 143(1) of the Act, dated 24.12.2021 for the Assessment Year 2020-21 (**AY**).

2. The assessee has raised the following grounds of appeal:

“1. On the facts and circumstances of the case and in law, the adjustment made in the total income of the Appellant under section 143(1) is grossly illegal and deserves to be deleted and the returned income of the Appellant deserves to be accepted as per law and in the interest of justice.

2. On the facts and circumstances of the case and in law, the AO erred in making and the CIT(A) erred in confirming the adjustments made on account of disallowance of the benefit of income applied for charitable purposes apparently and allegedly by denying the benefit of exemption under section 11 and section 12 of the Act solely on account of belated filing in Form 10B ignoring the fact that the alleged delay was marginal and on account of circumstances beyond the control of the Appellant and which deserved to be condoned as per law and in the interest of justice.

3. On the facts and circumstances of the case and in law, the Appellant having filed the audit report in Form 10B along with the return of income which was filed within time, the same deserves to be accepted and the benefit of income applied for charitable purposes which is otherwise allowable under law as well as the exemptions as claimed by the Appellant deserves to be allowed as per law and in the interest of justice.

4. On the facts and circumstances of the case and in law, the benefit of income applied for charitable purposes, not being a benefit granted under section 11 nor section 12 of the Act, the same cannot be denied for belated filing of Form 10B as per clause 12A of the Act.

5. Under any case, the income of the Appellant deserves to be assessed at net income / (loss) as per Income & Expenditure Account as per law.

6. The Appellant craves leave to add, amend, alter, vary and / or withdraw the above ground of appeal with the kind permission of the Hon'ble Tribunal.

3. Brief facts of the case are that assessee is a charitable trust duly registered u/s. 12AA and section 80G of the Act and accordingly enjoys tax exemptions and benefits available to charitable entities u/s. 11 & 12 of the Act. The assessee filed its return of income for the AY 2020-21 on 13.02.2021 declaring income of Rs. NIL claiming exemption u/s. 11 of the Act. The return of income was processed u/s. 143(1) of the Act and the Centralized Processing Center (**CPC**) denied exemption claimed by the assessee and taxed the entire gross receipts, as the Audit Report in Form 10B was not filed within the prescribed time limit.

4. Aggrieved by the denial of benefit u/s. 11 of the Act, assessee preferred appeal before the Ld. CIT(A), who vide its order affirmed the order of CPC holding that *“according to section 12A(1)(b) and Rule 17B, trusts are obliged to file Form 10B not later than the specified date mentioned in section 44AB of the Act, which is one month before the due date for submitting the income tax return u/s. 139(1) of the Act and there was a delay of one month in filing Form 10B”*. Aggrieved by the order of Ld. CIT(A), assessee is now in appeal before this Tribunal.

5. Learned counsel for the assessee submitted that CPC as well as Ld. CIT(A) erred in making and confirming the adjustments made on account of disallowance of benefit of income applied for charitable purposes by denying the benefits u/s. 11 and 12 of the Act solely on the ground of belated filing Form 10B ignoring the fact that the alleged delay was marginal and beyond the control of the assessee. It was also submitted that filing of Form No.10B is directory in nature and the same should have been considered by ld.CIT(A) while deciding the issue. Further, CPC was in possession of audit report at the time of processing of income.

6. Ld. Departmental Representative supported the orders of the lower authorities, but could not explain as to why the entire application of income has been ignored.

7. We have heard both the sides and perused the record placed before us. We note that assessee holds valid registration u/s.12A of the Act and has filed Form No.10B belatedly on 13.02.2021 and the Ld.CIT(A) who has also the co-terminus powers to that of CPC/AO did not accept the audit

report filed in Form No.10B and denied the benefit of sections 11 and 12 to the assessee solely on the ground of late filing of audit report. The hyper-technical and myopic view of CIT(A) is rejected.

8. We note that at the time of filing Form No. 10B, the entire country was under the impact of the COVID-19 pandemic situation and thus it is not a case of sheer negligence. We also note that the Coordinate bench, Surat in the case of *S.M. K.R. Vashi High School Vs. ITO (Exemption)* reported in 157 taxmann.com 702 (ITAT, Surat) has held that even if the Form No.10B could not be uploaded due to some technical error on the income-tax portal, benefit of section 11 could not be denied merely on account of delay in furnishing the audit report. Hon'ble Gujarat High Court in the case of *CIT (Exemption) vs. Anjana Foundation* (168 taxmann.com 462) (Guj. HC) has held that filing of Form No.10B is a procedural requirement and benefit of section 11 should not be denied for delay in furnishing Form No.10B. Hon'ble Court thus affirmed the view taken by the *Tribunal in its order dated 07.02.2023 in ITA No.695/Ahd/2023*. We therefore following the ratio laid

down in the above referred decisions hold that the assessee holding valid registration u/s.12A of the Act has filed Form No.10B belatedly and filing of such report is directory and not mandatory as held by Hon'ble Courts, therefore, benefit of sections 11 and 12 claimed by the assessee in income-tax return deserves to be allowed. Accordingly, we direct the CPC/AO to delete the entire demand/disallowance. Thus, grounds of appeal raised by the assessee are allowed.

9. In the result, appeal of the assessee is allowed.

Order pronounced on 26.03.2026 under Rule 34 of Income Tax (Appellate Tribunal) rules 1963

Sd/-

PAWAN SINGH
JUDICIAL MEMBER

sd/-

KHETTRA MOHAN ROY
ACCOUNTANT MEMBER

Nagpur: Dated: 26/03/2026

vr/-

Copy to:

1. The Assessee
2. The Revenue
3. The Pr.CIT concerned.
4. The DR, ITAT, Nagpur
5. Guard file.

By order

Senior Private Secretary
ITAT, Nagpur