

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member And
Shri Narendra Prasad Sinha, Accountant Member**

**ITA No: 1684/Ahd/2025
Assessment Year: 2024-25**

Electronics & Quality Development Centre B-177/178 GIDC, Electronic Centre, Sector-25, Gandhingar, Guajrat-382024 PAN: AAATE0718R (Appellant)	Vs	CPC, Bengaluru Current Juris-The Dy.CIT (Exemption), Circle-1, Ahmedabad (Respondent)
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**Assessee Represented: Ms. Arti Shah A.R.
Revenue Represented: Shri R P Rastogi, CIT-DR**

Date of hearing : 25-03-2026
Date of pronouncement : 27-03-2026

आदेश/ORDER

PER: T.R. SENTHIL KUMAR, JUDICIAL MEMBER

This appeal is filed by the Assessee as against the appellate order dated 11-06-2025 passed by the Addl./Joint Commissioner of Income Tax (Appeal)-1, Chennai arising out of the intimation passed under section 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to Asst. Year 2024-25.

2. Brief facts of the case is that the assessee is a State Government Organization registered as a Public Charitable Trust and also having registration under section 12AA of the I.T. Act.

3. The solitary issue in this appeal is late filing of Form 10B thereby exemption u/s. 11 of the Act was disallowed while processing the return u/s. 143(1) of the Act by the CPC. The assessee filed condonation of delay of 35 days in filing Form 10B vide application dated 24-12-2024 before Ld. PCIT, which was pending consideration. Therefore assessee filed appeal before Ld. CIT(A) which was dismissed stating that the Ld. CIT(A) does not have the power to condone the delay, thereby confirmed the addition made by CPC.

4. Aggrieved against the same, assessee is in appeal before us raising the following Grounds of Appeal:

1. The Ld. Addl/Jt. CIT(A)-1, Chennai, has erred in law and on the facts and circumstances of the case by confirming the conclusion by the Assessing Officer that the Appellant is not eligible for exemption u/s.11 of the I.T. Act, 1961 as the Audit Report in Form 10B filed by the Appellant is not filed in prescribed time of one month before the due date of filing of the Return u/s.139(1) of the I.T. Act, 1961.

2. The Ld. Addl./Jt. CIT(A)-1, Chennai, has erred in law and on facts and circumstances of the case by confirming the disallowance made by the Assessing Officer of deduction of Ps.82,75,229/-claimed by the Appellant for income set apart u/s.11(1)(a) of the I.T. Act, 1951 at 15% of income, merely on technical ground that the Appellant has not filed Audit Report in Form 10B within stipulated time and hence not eligible for exemption u/s.11 of the LT. Act, 1961.

3. The Ld. Addl/Jt. CIT(A)-1, Chennai, has erred in law and on facts and circumstances of the case by confirming the disallowance made by the Assessing Officer of disallowing deduction of Rs.2,04,57,744/- claimed by the Appellant for application in respect of capital expenditure, merely on technical ground that the Appellant has not filed Audit Report in Form 10B within stipulated time and hence not eligible for exemption u/s.11 of the LT. Act, 1961.

4. The Appellant prays for the following:

(i) the Appellant may kindly be held as eligible for exemption u/s.11 of the 1.T. Act, 1961 and accordingly income of the Appellant may kindly be directed to be assessed at Rs.Nil as per the Return of Income e-filed.

(ii) that the disallowance of Rs.82,75,229/- for income set apart u/s 11(1)(a) at 15% of income made by the Assessing Officer may kindly be deleted fully.

(iii) that the disallowance of Rs.2,04,57,744/- for application in respect of capital expenditure made by the Assessing Officer may kindly be deleted fully.

5. The Appellant prays to reserve the right to add, alter, amend or withdraw any of the above grounds of appeal.

5. At the outset, Ld. Counsel appearing for the assessee submitted that similar issue was considered by this Tribunal in assessee's own case for the earlier Asst. Year 2022-23. The main reason for the delay is due to the Chief Account Officer had resigned since 16-03-2022 and no Chief Account Officer had been immediately appointed by the Government Authority, there was delay in filing the Form 10B in this assessment year also, thus requested to condone the delay.

6. Per contra, Ld. CIT-DR appearing for the Revenue supported the orders passed by the lower authorities and requested to uphold the same.

7. We have heard rival submissions and perused the materials available on record. For the Asst. Year 2022-23, Co-ordinate Bench of this Tribunal in assessee's own case in ITA No. 248/Ahd/2025 vide order dated 22-12-2025 held as follows:

“..... 10. In the case of Commissioner of Income Tax (Exemptions) vs. Laxmanarayan Dev Shrishan Seva Khendra [2024] 167 taxmann.com 548 (Gujarat)[10-09-2024], the Assessee, a public charitable trust, did not upload audit report in Form 10B along with its return of income. Accordingly, Centralised Processing Centre (CPC) processed return

under section 143(1) of the Act denying benefit of exemption under section 11 to assessee. During pendency of appeal before Commissioner (Appeals), assessee electronically uploaded Form 10B. The Commissioner (Appeals) admitted report in Form 10B filed during course of appellate proceedings and allowed benefit of section 11 of the Act to assessee - Tribunal upheld order of Commissioner (Appeals). The Hon'ble High Court held that since assessee had already filed audit report in Form 10B electronically during pendency of appellate proceedings along with copy of audited financial statements, delay in filing said form was rightly condoned by Commissioner (Appeals) and Tribunal.

11. In the case of Parul Mahila Pragati Mandal vs. Income-tax Officer (Exemption) [2025] 175 taxmann.com 922 (Gujarat)[30-04- 2025], the assessee -trust, registered under provisions of Bombay Public Trusts Act, 1950, filed its return of income claiming exemption under section 11 of the Act. The Assessee had obtained audit report in Form 10B within due date as prescribed under Act. However, owing to an inadvertent administrative lapse and oversight, said audit report was not electronically filed along with return of income for relevant assessment year. Accordingly, CPC passed an intimation disallowing exemption under section 11 of the Act. The Assessee filed Form 10B electronically in accordance with requirements of section 12A(1)(b) of the Act. The Assessee also filed an application under section 119(2)(b) for condonation of delay in filing Form 10B. However, said application was rejected. The Hon'ble High Court that filing of Form 10B is only a procedural requirement and failure to file same along with return of income cannot be treated as mandatory requirement for purpose of claiming exemption under section 11 and even if such Form is filed at a later stage, assessee will still be entitled to claim exemption. Therefore, assessee could not be denied exemption merely because Form 10B was not filed within time.

12. In the case of Babubhai C Jariwala Charitable Trust vs. Central Board of Direct Taxes (ITA Cell) [2025] 180 taxmann.com 8 (Gujarat)/[2025] 307 Taxman 592 (Gujarat)[16-10-2025], the assessee , a charitable trust, filed its return of income along with Form 10. However, Form 10B was inadvertently not filed by Chartered Accountant along with return. Subsequently, assessee filed belated Form 10B and also filed application for condonation of delay under section 119(2)(b) of the Act which was rejected by authority concerned. It was noted that inadvertent oversight had occurred in not filing Form 10B due to impending due dates and overwhelming workload of CA. the Hon'ble High Court held that since delay in filing Form 10B was due to inadvertent oversight of CA, same was to be condoned by authority concerned under section 119(2)(b) of the Act.

13. In the case of Brahmchari Wadi Trust vs. Commissioner of Income-tax (Exemption) [2025] 173 taxmann.com 54 (Gujarat)[17- 03-2025], Assessee-trust was running educational institutions. It filed its return of income claiming benefits under section 11 and 12 of the Act. The assessee also exercised option of accumulation of income as per provision of section 11(2) of the Act and accordingly filed Form No. 10 showing accumulation. However, assessee filed Form No. 10 belatedly, The Assessing Officer disallowed benefit claimed under section 11(2) of the Act on ground that assessee had failed to furnish Form No. 10 before date of furnishing return under section 139(1) - Assessee filed an application under section 119(2)(b) of the Act praying for condonation of delay in filing Form No. 10 and accordingly, the same was rejected. The Hon'ble High Court noted that it was not in dispute that assessee had explained in detail cause for late

filing of Form that same was due to internal administrative problems of assessee-trust. The Hon'ble High Court noted that in similar circumstances in case of Shri 108 Parshwanath Bhakti Vihar Jain Trust v. CIT (Exemption) [2024] 166 taxmann.com 732 (Gujarat) it was held that where assessee-trust for past many years had substantially satisfied conditions for claiming exemption under section 11 of the Act, same could not be denied for non-filing of Form No. 10 in time. Accordingly, following same, Hon'ble High Court held that impugned order passed rejecting assessee's application for condonation of delay in filing Form No. 10 was to be set aside and matter was to be remanded back to pass appropriate order to condone said delay.

14. In the case of Shree Vardhman Stanakoasi Jain Shravak Trust vs. Income-tax Officer [2025] 172 taxmann.com 165 (Ahmedabad - Trib.) [14-02-2025], the Ahmedabad ITAT held that delay in submission of Form No. 10B is a procedural defect, hence, where assessee had filed Form No. 10B before Commissioner (Appeals) before conclusion of appellate proceedings, exemption under sections 11 and 12 could not be denied to assessee only on account of late filing of Form No. 10B.

15. In the case of Shree Bhakt Samaj Vikas Education Trust vs. Assistant Commissioner of Income-tax (Exemption) [2025] 175 taxmann.com 1076 (Ahmedabad - Trib.)/[2025] 213 ITD 639 (Ahmedabad - Trib.)[25-06-2025], the Ahmedabad ITAT held that where assessee trust had filed Form 10B and same was available with Department before passing of order/intimation under section 143(1) of the Act, claim of exemption under section 11 could not be denied only on account of delay in filing of Form 10B before due stipulated date.

16. In the instant case, the sole basis for denial of exemption under section 11 of the Act while processing the return under section 143(1) was the alleged delay in filing the audit report in Form No. 10B. It is an undisputed fact that the assessee had e-filed the audit report in Form No. 10B along with the revised return of income filed under section 139(5) of the Act on 31.12.2022 and that the said audit report was already available on the records of the Department when the intimation under section 143(1) was issued on 04.04.2023. Therefore, the action of the CPC in ignoring the audit report and denying exemption under section 11 at the stage of processing under section 143(1) was clearly beyond the scope of permissible adjustments under section 143(1)(a) of the Act. We further find that the learned CIT(Appeals), instead of adjudicating the issue on merits, merely restored the matter to the file of the Assessing Officer for verification of condonation proceedings, despite the fact that the audit report was already on record. This approach, in our considered view, is not sustainable in law. The legal position is now well settled that filing of audit report in Form No. 10B is a procedural requirement and not a substantive condition for claiming exemption under section 11 of the Act. Delay in filing such audit report is a curable defect and exemption cannot be denied merely on such technical ground, particularly when the audit report is furnished during assessment or appellate proceedings. In this regard, we draw support from the judgment of the Hon'ble Gujarat High Court in Commissioner of Income Tax (Exemptions) v. Laxmanarayan Dev Shrishan Seva Khendra [2024] 167 taxmann.com 548 (Gujarat), wherein it was held that once Form No. 10B is filed during appellate proceedings, delay in filing the same stands rightly condoned and exemption under section 11 cannot be denied. Similar view has been taken by the Hon'ble Gujarat High Court in Parul Mahila

Pragati Mandal v. Income-tax Officer (Exemption) [2025] 175 taxmann.com 922 (Gujarat), holding that filing of Form No. 10B is only procedural and exemption under section 11 cannot be denied merely for delayed filing of such form. The Hon'ble Gujarat High Court in Babubhai C. Jarizwala Charitable Trust v. Central Board of Direct Taxes [2025] 180 taxmann.com 8 (Gujarat) / [2025] 307 Taxman 592 (Gujarat) has also held that delay in filing Form No. 10B due to inadvertent or bona fide reasons deserves to be condoned under section 119(2)(b) of the Act. Similar principles have been reiterated in Brahmchari Wadi Trust v. Commissioner of Income-tax (Exemption) [2025] 173 taxmann.com 54 (Gujarat) and Shri 108 Parshwanath Bhakti Vihar Jain Trust v. CIT (Exemption) [2024] 166 taxmann.com 732 (Gujarat). The coordinate benches of the Tribunal have also consistently held that delayed filing of Form No. 10B is a procedural lapse and cannot be the basis for denial of exemption under sections 11 and 12. Reference may be made to Shree Vardhman Stanakvasi Jain Shravak Trust v. Incometax Officer [2025] 172 taxmann.com 165 (Ahmedabad-Trib.) and Shree Bhakt Samaj Vikas Education Trust v. Assistant Commissioner of Income-tax (Exemption) [2025] 175 taxmann.com 1076 (Ahmedabad-Trib.) / [2025] 213 ITD 639 (Ahmedabad-Trib.), wherein it was held that if Form No. 10B is available on record before completion of proceedings, exemption under section 11 cannot be denied on the ground of delay.

17. Respectfully following the aforesaid binding judicial precedents and having regard to the fact that the audit report in Form No. 10B was duly filed along with the revised return and was available on record prior to issuance of intimation under section 143(1) of the Act, we hold that the denial of exemption under section 11 of the Act was not justified. The appeal of the assessee is accordingly allowed.

7.1. The only difference in this Asst. Year is there is no revised return filed but Form 10AB was filed belatedly. Therefore respectfully following the binding judicial precedents that Form 10AB filed belatedly on 11-11-2024, but before making the adjustment u/s. 143(1) on 29-01-2025, we hold that the denial of exemption u/s. 11 of the Act was not justified. Thus the Grounds raised by the assessee are hereby allowed.

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

Order pronounced in the open court on 27-03-2026

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER *True Copy*

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Ahmedabad :

Dated 27/03/2026

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद