

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“DB” BENCH, NAGPUR**

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

**ITA No. 186/NAG/2025 (AY 2015-16)**

**ITA No. 211/NAG/2025(AY 2015-16)**

**ITA No. 212/NAG/2025(AY 2015-16)**

Shree Sant Bhojaji Maharaj Deosthan Ajansara Ajansara, Wardha – 442001. [PAN: AAPTS4528N]	Vs	CIT(E), Pune at Nagpur Saraf Chambers, Sadar, Nagpur – 440001.
Appellant / Assessee		Respondent / Revenue

Assessee by	ShriManoj G Moryani, Adv & Shri Bhavesh M Moryani, Adv
Revenue by	Shri Pankaj Kumar, CIT DR
Date of hearing	23.02.2026
Date of pronouncement	01.04.2026

**PER KHETTRA MOHAN ROY, AM:**

1. These three appeals are filed by assessee against the three separate orders of ld. CIT(A) for AY 2015-16. In all appeals, the facts are common. Thus, with consent of the parties all appeals were clubbed, heard together and are decided by common order. For appreciation of facts, facts in ITA No. 186/Nag/2025, is treated as lead case. In this appeal the assessee has challenged the impugned order under section 263 dated 17/02/2021, by the Ld. Commissioner of Income Tax (Exemption) “CIT(E)”, Pune at Nagpur for the assessment

year 2015-16. The assessee has raised the following grounds appeal: -

*“1.The order passed U/s. 263 by Commissioner of the Income Tax (Exemption) Pune at Nagpur is illegal, invalid and bad in law;*

*2. The learned Commissioner of the Income Tax (Exemption) Pune at Nagpur ought to have considered that order passed U/s. 143(3) by the assessing officer in which all the issues were discussed and considered all the issues at the time of assessment proceedings and the assessing officer has considering all the aspect and made addition, therefore order passed by the Commissioner of the Income Tax (Exemption) Pune at Nagpur is unjustified, unwarranted and excessive;*

*3. The learned Commissioner of the Income Tax (Exemption) Pune at Nagpur ought to have considered order passed U/s. 143(3) by the assessing officer is not erroneous and not prejudicial in the interest of revenue. Therefore, order passed U/s. 263 is unjustified, unwarranted and excessive;*

*4. The learned Commissioner of the Income Tax (Exemption) Pune at Nagpur has not considered the entire written submission of the assessee and passed the order U/s. 263 without going into merits of the case; therefore, addition made is unjustified, unwarranted and excessive;*

*5. The learned Commissioner of the Income Tax (Exemption) Pune at Nagpur has not accepted the contention of the assessee and disallowed the voluntary contribution on the basis of registration u/s. 12AA; therefore, order U/s. 263 is unjustified, unwarranted and excessive;*

*6. The appellant seeks permission to add any other ground of appeal or amend or alter the aforesaid ground of appeal;”*

2. At the time of hearing the Ld. AR of assessee filed an application for raising additional grounds and prayed for admit the same, which are as under:

*“1.The Commissioner of Income Tax (Exemption) Pune at Nagpur erred in considering that the notice issued u/s. 263 were barred by limitation, therefore consequential order passed is non-est and void ab initio.*

*2. The Commissioner of Income Tax (Exemption), Pune at Nagpur erred in considering that the proceedings initiated and order passed under section 263 has become time barred by limitation and therefore continuation of the same proceedings became non-est and void ab initio, therefore order passed u/s. 263 is illegal, invalid and bad in law”*

3. At the outset, we noticed that there is a delay of 1419 day in filing the present appeal before the Tribunal. The assessee has filed application for condonation of delay, which is supported with the affidavit of President of assessee-society. The counsel for assessee submitted that the order under section 263 dated 17/02/2021 issued during Covid Pandemic period and assessee trust were working with limited staff, the aforesaid order was received by the employee of the assessee trust but the employee Santosh Pratapsingh Gherwar R/o. Ajansara, Warda has left his services without communicated aforesaid order to the president of the assessee trust. Due to mistake of employee of the assessee trust for not communication the aforesaid order the assessee society has not filed appeal against the order passed by Commissioner of

Income Tax (Exemption), Pune at Nagpur. Later when the assessee trust received order u/s. 250 filed against order 143(4) r.w.s. 263 on 22/02/2025 and as per advice of new counsel, the president of assessee trust enquired regarding the order u/s 263 passed by the Commissioner of Income Tax (Exemption), Pune at Nagpur and immediately filed appeal on 19/03/2025. In support of its contention the assessee society has filed affidavit also. The counsel for the assessee submitted that due to above reason appeal is being filed on 19/03/2025 along with delay application therefore there is delay of 1431 days, which deserves and be condoned. The delay is not intentional or deliberate and may kindly be condoned in the interest of justice. The assessee has good case on merit and is likely to succeed if the case is heard and decided on merits. The ld. Counsel also filed list of various case law in support of his arguments on delay.

4. On the other hand, the ld. CIT-DR for the revenue argued that there is long delay in filing appeal and the cause of delay is not good cause. The delay may not be condoned.

5. We have heard counsel for both the parties on delay and perused the material placed on record, and the judgment cited before us on application seeking condonation of delay. Considering the entire factual position as explained before us

and also keeping in view the principles on law of Limitation, laid down by Hon'ble Supreme Court including in the case of Collector Land Acquisition, Anantnag & Ors vs Mst. Katiji & Ors 1987 AIR 1353 (SC) wherein it has been held that where substantial justice is pitted against the technicalities of non-deliberate delay, then substantial justice is to be preferred. In our view, the principle of advancing substantial justice is of prime importance, hence, considering the explanation put forth by the assessee by justifiably and properly explaining the delay which occurred in filing the appeal and considering the expression "sufficient cause" liberally we are inclined to condone the delay in filing the appeal before us. Consequently, the delay is condoned and the appeal is admitted to be heard on ground of merits.

6. The brief facts of the case are that the assessee is a charitable trust, registered under Society Registration Act, 1860 in the office of Charity Commissioner, Wardha. The assessee filed return of income for the A.Y 2015-16 on 31.03.2017 declaring total income at Rs. 56,69,660/- claiming deduction u/s. 11(1)(d) at Rs. 47,08,027/-. The Trust has been established for the remembrances of late Shri Bhojaji Maharaj who devoted his whole life for economically needed peoples, like providing Food, Shelter and Cleanliness atmosphere. The assessee trust maintaining regular books of accounts and the

same are audited under the provision of Bombay Public Trust Act. The trust has decided to construct the community hall for devotee coming from adjoining are of Vidarbha and worship hence pass resolution in board meeting to construct hall with the help of devotees. In this regard a general notice was placed outside temple for building fund, area development and maintenance fund and also arranged a box at the temple premises naming box collection building fund and pilgrims put their offering for building construction and area development and maintenance specifically. The return was selected for limited scrutiny and scrutiny assessment was completed u/s. 143(3) of the IT Act on 26.12.2017. As the assessee trust was not registered u/s. 12AA, therefore assessment completed as AOP. During the course of assessment proceedings Assessing Officer has verified all the details which was furnished by assessee, against various show cause notices.

7. Thereafter, the assessment order dated 26.12.2017, was revised by ld. CIT(E) by exercising his power under section 263 of the Act on 17/02/2021. While revising assessment order, the Ld. CIT(E) observed that receipts of voluntary contributions to the tune of Rs. 47,48,027/- are not credited to Income & Expenditure Account, whereas, such receipts are directly credited to Corpus Fund Account and further endorsed to balance sheet. The ld. CIT (E) was of the view that the receipts of Rs. 47,48,027/- ought to have been charged to

tax for A.Y. 2015-16. The assessment order was held as erroneous and prejudicial to the interest of revenue. The assessment order was set aside with the direction to pass fresh assessment order.

8. Aggrieved by the order u/s 263 of the Act the assessee is in appeal before us.

9. The Ground Nos. 2 To 5 raised by the assessee are interrelated and interconnected and relates to challenging the order of CIT(E) in invoking the provisions u/s 263 of the Act. The Ld. counsel for the assessee strongly objected on the validity of order of CIT(E) and argued that during assessment all the issues have been considered and also verified by the AO and accepted the return income by allowing the claim at Rs. 47,48,027/- and determining total income at Rs. 56,79,096/-. During the course of original assessment proceeding the AO has issued several notices Under section 142(1) and 143(2) from time to time and called the details with respect of claim of the assessee, which is placed on record in Paper Book Page-17 To 18 of the Paper Book. In response to notices assessee has filed reply from time to time before the assessing officer, which is on Page-13 To 16, 19 of the Paper Book. The assessment order is not erroneous being legally sustainable order and not prejudicial to the interest of

revenue. During the course of assessment proceeding the assessee has submitted the entire details before the assessing officer, which are as under:-

1. *Copy of acknowledgment return and computation of Income Paper Book Page-1 To 4)*
2. *Copy of Audit Report along with Income & Expenditure A/c. and Balance Sheet (Paper Book Page-5 To 12)*
3. *Copy of receipt, enclosed and ledger produced for verification.*
4. *Bills of building material produced and xerox of some bills are enclose for verification.*
5. *Copy of Bank statement produced for verification*
6. *The cash is deposited in to Bank A/c. from donations, shop rent, utensils rent, agricultural income and other income, which is duly reflected in financial statement which was deposited into Bank of India Wadher from time to time.*

10. The Ld. CIT(E) has issued the show cause notice dated 25/01/2021 without mentioning the reasons for initiating proceedings 263 of the Act. In response to notice assessee has submitted the detailed and explained corpus fund received and expenditure incurred. The Ld. CIT(E) has not accepted the contention of the assessee and treated the receipt of voluntary contribution to the tune of Rs. 47,48,027/- are not credited to Income & Expenditure Account, whereas, directly credited to Corpus Fund Account and further endorsed to balance sheet. In view of the facts the trust is not registered u/s 12AA and assessed as AOP. It is apparent that the receipt of Rs. 47,48,027/- ought to have been charged to tax for A.Y. 2015-16 under consideration. However, from the balance sheet as on 31.03.2015 only Rs. 4,76,339/- was credited to the

building fund. Thus, the observation of Ld. CIT(E) is without application of mind and the order u/s 263 is based on erroneous facts.

11. The Ld.AR of assessee further argued that voluntary contribution made with a specific direction to form part of the Corpus fund are generally considered as capital receipt and not taxable. Irrespective of the fact that assessee is registered u/s. 12A/12AA or not. The assessee has utilised the entire donation for constructing community hall for devotee and building fund and area development and maintenance fund by making arrangement at the entry point in temple premises a box specifically naming box collection for building fund and area development and maintenance.

12. The Ld. AR also drawn our attention to the assessment order in which clearly mentioned that (i) The case was selected under CASS and notice u/s. 143(2) was issued to the assessee 18/09/2017 which was duly served on the assessee. After change of incumbent, notice u/s 142(1) was issued to the assessee on 04/12/2017, (ii) In response these notices Shri Abhishek Patni C.A. duly authorized by the assessee and Shri Vasant Bhagwanji Yede Secretary of the trust attended from time to time and made compliances which are placed on record. Books of accounts of the assessee are duly audited as

required under provisions of Bombay Public Trust Act. (ii) the assessee is a charitable trust and it exists for the remembrance of Shri Bhojaji Maharaj and to arrange food charities for economically needed people, Gross receipt for the year under consideration is Rs. 65,95,200/-. It derives income from Rent, Interest, sale of gains and coconut and pooja donation. Books of account have been test checked vis-à-vis the vouchers, bills and supporting documents produced for examination. The assessee trust is not registered u/s. 12AA of the Income Tax Act, 1961. Hence the assessment was completed as AOP on 26.12.2017. The entire issues are duly verified and test checked by the assessing officer and assessment were completed therefore there is no need of proceedings U/s. 263 in the case of the assessee. In this regard the assessee has placed reliance upon the following judgments:

1. **(1993) 203 ITR 108 (Mum. HC)**  
*Commissioner of Income Tax -Vs.-Gabrial India Ltd.*
2. **(2003) 259 ITR 0502 (Guj. HC)**  
*Commissioner of Income Tax -Vs.- Arvind Jewellers*
3. **(2004) 268 ITR 0128 (P&H HC)**  
*Commissioner of Income Tax -Vs.- Max India Ltd.*

4. **(2007) 289 ITR 0226 (Gau. HC)**  
*Smt. Lila Choudhury -Vs.- Commissioner of Income Tax & Ors.*
5. **(2004) 89 TTJ 0591 (Hyd. ITAT)**  
*Chennai Finance Co. Ltd. -Vs.- Asstt. Commissioner of Income Tax*
6. **(1997) 59 TTJ 0736 (Chen. ITAT)**  
*Ashok Leyland Finance Ltd. -Vs.- Asstt. Commissioner of Income Tax*
7. **(2017) 390 ITR 0291 (Bom. HC)**  
*Commissioner of Income Tax -Vs.- Nirav Modi*
8. **(2018) 407 ITR 0681 (Guj. HC)**  
*Micro Inks Ltd. -Vs.- Pr. Commissioner of Income Tax*

13. The Ld. AR further placed reliance upon the following judicial precedents:

1. **ITA No. 501/Ahd/2022 (ITAT, Ahmedabad)** in case of *Shri Manubhau Sewa Samiti -Vs.- Income Tax Officer*
2. **ITA No. 1539/PN/2008 (ITAT-Pune)** in case of *Serum Institute of India Research Foundation -Vs.- Income Tax Officer*
3. **ITA No. 230/Mum/2016 (ITAT Mumbai)** in case of *Chandraprabha Jain Swetambar Mandir -Vs.- Assistant Commissioner of Income Tax*

14. The Ld. AR has raised Additional Ground during the course of proceedings, which are considered. The Ld. AR of the assessee argued that in case of the assessee original assessment U/s. 143(3) was completed on 26/12/2017 and Ld. CIT(E) was passed order U/s. 263 on 17/02/2021 and time

limit for completion of 263 proceedings was 31/03/2020. The Ld. CIT(E) exercising its revisional jurisdiction revised the order of assessment only in relation to receipt of voluntary contribution are not credited to Income and Expenditure account which being not the subject of the 263 proceedings, the period of limitation provided for under sub-s. (2) of s. 263 of the Act would be to run from the date of the order of assessment i.e. 26/02/2017. The revision jurisdiction having, thus, been invoked by the CIT(E) beyond the period of limitation, it was wholly without jurisdiction rendering the entire proceedings a nullity.

15. The counsel for the assessee placed reliance on following judgments

1. **2024 Tax Pub(DT) 2556 (Raj-HC)** *Jainsons Agrochem Industries -Vs.- Principal Commissioner of Income Tax*
2. **(2023) 454 ITR 811 (SC)** *Commissioner of Income Tax -Vs.- Industrial Development Bank of India Ltd.*
3. *Judgment of Hon'ble Income Tax Appellate Tribunal, Raipur Bench dated 04/07/2024 vide ITA No. 244/Rpr/2024 in case of Hotel Babylon Continental (P) Ltd. -Vs. Principal Commissioner of Income Tax*
4. *Judgment of Hon'ble Income Tax Appellate Tribunal, Jaipur 'B' Bench, Jaipur dated 28/01/2025 vide ITA No.*

**1014/Jpr/2024** in case of *Shiv Vegpro (P) Ltd. –Vs. Principal Commissioner of Income Tax*

5. **(2024) 266 ITR 694 (Bom. HC – Panji Bench)** *Commissioner of Income Tax –Vs- Anderson Marine & Sons (P) Ltd.*
6. **(2007) 293 ITR 1 (SC)** *Commissioner of Income Tax –Vs.- Alagendran Finance Ltd*
7. *Judgment of Hon’ble High Court of Madras dated 13/06/2022 vide T.C.A. Nos. 923 To 925 of 2010 in case of the Commissioner of Income Tax, Trichy –Vs.- The Lakshmi Vilas Bank Ltd. reported at MANU/TN/5001/2022*
8. *Judgment of Hon’ble Income Tax Appellate Tribunal, Nagpur Bench, Nagpur dated 22/10/2024 vide ITA No. 349 & 350/Nag/2024 in case of Latitude Infraventure –Vs. Principal Commissioner of Income Tax, Nagpur-1 reported at MANU/NP/0073/2024*
9. **(2016) 388 ITR 135 (All. HC)** *L.G. Electronics India (P) Ltd. –Vs.- Principal Commissioner of Income Tax*
10. *Judgment of Hon’ble Income Tax Appellate Tribunal, Surat Bench, Surat dated 22/03/2021 vide ITA No. 404/SRT/2019 in case of Begani Dyeing Mills Pvt. Ltd. – Vs.- Principal Commissioner of Income Tax-1*

16. On the other hand, the ld. CIT-DR for the revenue supported the order of CIT(E). The ld. CIT-DR argued that the assessment order passed by assessing officer is erroneous and prejudicial to the interest of revenue as has been categorically

held by CT(E) in his order. The order passed by Id. CIT(E) is not time barred.

17. We have heard the rival arguments, perused the material facts available on record. The assessee- trust filed return of income showing income at Rs. 56,69,664/- by claiming deduction at Rs. 47,48,027/-. On perusal of record, it is clear that during assessment, the assessee filed written submission alongwith supporting evidence in response to notices details called and the assessing officer. From the contents of show cause notice it is clear that assessing officer has verified all the issues during the course of assessment proceedings and passed the assessment order U/s. 143(3) on 26.12.2017 allowing the deduction. It is also settled law that the trust is charitable trust even through eligible to claim deduction without 12A/12AA as corpus donation as capital receipts and not taxable irrespective of the fact that assessee registered under section 12A/12AA of the Act.

18. We are of the considered opinion that keeping in view the facts and circumstances of this case and in particular, having regard to the fact that the CIT(E) exercising its invoked revisional jurisdiction U/s. 263 only in relation to receipt of voluntary contribution are not credited to Income and Expenditure account the same cannot be subject of the 263 proceedings and the period of limitation provided for under

sub-s. (2) of s. 263 of the Act which would run from the date of the original assessment order. The revision jurisdiction having, thus, been invoked by the CIT(E) beyond the period of limitation, which is wholly without jurisdiction rendering the entire proceedings a nullity.

19. Accordingly, in the backdrop of our aforesaid observation read alongwith the judgment cited by the assessee, we are of the view that it is only in a case where the issues before the CIT(E) at the time of exercising powers under s. 263 of the Act related to the subject-matter of original assessment and the issue were already discussed, the same would not bring the order of assessment within the realm of the jurisdiction of the CIT(E) under s. 263 of the Act. It is also admitted fact that period of limitation for exercising jurisdiction under s. 263 of the Act would invoke from the date of the original assessment order and the proceedings initiate U/s. 263 were barred by limitation.

20. Even on merits of the case the entire issue has been discussed in the original assessment proceedings and the assessment were completed U/s. 143(3) by accepting the return income, then initiation of 263 proceedings on same issues were bad in law. The following judgments cited by the assessee also supported the case of the assessee:

1. **(1993) 203 ITR 108 (Mum. HC)** *Commissioner of Income Tax –Vs.-Gabrial India Ltd.*
2. **(2003) 259 ITR 0502 (Guj. HC)** *Commissioner of Income Tax –Vs.- Arvind Jewellers*
3. **(2004) 268 ITR 0128 (P&H HC)** *Commissioner of Income Tax –Vs.- Max India Ltd.*
4. **(2007) 289 ITR 0226 (Gau. HC)** *Smt. Lila Choudhury –Vs.- Commissioner of Income Tax & Ors.*
5. **(2004) 89 TTJ 0591 (Hyd. ITAT)** *Chennai Finance Co. Ltd. –Vs.- Asstt. Commissioner of Income Tax*
6. **(1997) 59 TTJ 0736 (Chen. ITAT)** *Ashok Leyland Finance Ltd. –Vs.- Asstt. Commissioner of Income Tax*
7. **(2017) 390 ITR 0291 (Bom. HC)** *Commissioner of Income Tax –Vs.- Nirav Modi*
8. **(2018) 407 ITR 0681 (Guj. HC)** *Micro Inks Ltd. –Vs.- Pr. Commissioner of Income Tax*

21. Thus, in terms of our aforesaid observation, we are of the view that, the CIT(E) had exceeded the jurisdiction vested with him under s. 263 of the Act with respect to the aforesaid issue even in the show cause notice no reason has been mentioned for invoking 263 it fails to mention the specific reasons for proposed revision. Even the order U/s. 263 were passed beyond the time limit prescribed in the section. Accordingly, the revision order passed by the Ld. CIT(E) under s. 263 of the

Act dated 17/02/2021 being not as per the mandate of law cannot be sustained and is liable to be quashed.

22. In the result, appeal filed by the assessee is in **ITA No. 186/Nag/2025** is allowed in terms of our aforesaid observation.

23. In ITA No. 211/Nag/2025, the assessee has challenged the addition made in assessment order passed under section 143(3) rws 263 in order giving effect to the direction of CIT(E), which were confirmed by ld. CIT(A) in his order dated 22/02/2025. Considering the facts that we have quashed the order passed under section 263 dated 17/02/2021. Hence, the addition made in assessment order will not survive. In the result, the appeal in **ITA No. 211/Nag/2025** is allowed.

24. In ITA No. 212/Nag/2025, the assessee has challenged the validity of penalty levied under section 271(1)(c) on the addition made in the order giving effect to the direction of CIT(E), which on further appeal was confirmed by ld CIT(A). Considering the facts that we have quashed the order passed under section 263 dated 17/02/2021, which was basis for making addition. Further, additions in the quantum assessment, which is the basis of penalty under section 271(1)(c) is also quashed in ITA No.211/Nag/2025. Hence, the

penalty order dated 22.02.2025 will not survive. In the result, the appeal in **ITA No. 212/Nag/2025** is also allowed.

25. In the result, all the appeals filed by the assessee are allowed.

Order pronounced on 01.04.2026 under Rule 34 of Income Tax (Appellate Tribunal) rules 1963

Sd/-  
**PAWAN SINGH**  
**JUDICIALMEMBER**

sd/-  
**KHETTRA MOHAN ROY**  
**ACCOUNTANT MEMBER**

Nagpur: Dated: 01/04/2026  
KRK, Sr. PS

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

By order

Senior Private Secretary  
ITAT, Nagpur