

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH: BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI SOUNADARARAJAN K., JUDICIAL MEMBER**

ITA Nos. 2491 & 2492/Bang/2025
Assessment Year : 2021-22 & 2022-23

M/s. Aditi Educational Trust, C/o. Fiscal Law Partners, Advocates, #32/2, 18th Cross, Sadashivanagar, Bengaluru - 560080. PAN No: AABTA6204B	Vs.	The Income Tax Officer [Exemptions] Ward- 1 Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Ms. Smriti Atreya & Shri Hemant Pai, Advocates
Respondent by	:	Shri. Balusamy. N - JCIT

Date of Hearing	:	09-03-2026
Date of Pronouncement	:	07-04-2026

ORDER

Per Prashant Maharishi, Vice President

1. These 2 appeals are filed by the Appellant Trust namely M/s. Aditi Educational Trust [Assessee/Appellant] for Assessment Year 2021- 22 and 2022- 23 against Appellate Order passed by the Joint Commissioner of Income Tax [Appeals], National Faceless Appeal Centre [the Id. CIT (A)] on 30.10.2025 for Assessment Year 2021- 22 and Appellate Order passed on 23.08.2025 for Assessment Year 2022- 23.
2. As per facts extracted from the orders, Assessee is a Trust registered u/s. 12A of the Income Tax Act, 1961 [the Act] and for the Assessment Year 2021- 22 filed its return of income & on 27.02.2022 at Rs. Nil/- after claiming an exemption of Rs. 51,92,257/- u/s. 11 of the Act.

3. Assessee filed audit report in form number 10BB instead of form number 10B on 08.02.2022. The due date for filing of the audit report was 15.02.2022.
4. Due to a bona fide oversight as stated, the Chartered Accountant of the Appellant inadvertently filed audit report in form number 10BB on 08.02.2022 instead of form number 10B. When the Chartered Accountant came to be aware of these facts the audit report was filed in correct form 10B on 04.11.2022. It has caused a delay of 262 days in filing form number 10B.
5. The above return was processed u/s. 143 [1] of the Act on 25.11.2022, and the total income of the Appellant was determined at Rs. 51,92,257/- denying exemption u/s 11 & 12 of the Act on account of delayed filing of form number 10B.
6. Aggrieved with the intimation, Assessee filed request for rectification of the same that exemption claimed u/s. 11 of the Act should be allowed. However, such an application was rejected on 08.12.2022. Against this order it preferred an Appeal before the Commissioner of Income Tax [A] which was disposed of on 23.08.2025 where in it was held that as form number 10B is filed belatedly, the delay is procedural and caused by a bona fide mistake, the condonation of delay in filing form number 10B does not vests with the CIT Appeal. Such power is explicitly conferred on the jurisdictional Commissioner as per Central Board of Direct Tax circular No. 2020 u/s 119[2][b] of the Act and therefore the Assessee was directed to file a petition for condonation of delay before the jurisdictional Commissioner. Accordingly, he restored the issue back to the file of the Ld. Assessing Officer directing the jurisdictional Commissioner to adjudicate the condonation petition in accordance with above circular and judicial precedents. He directed the Ld. Assessing Officer to grant exemption u/s. 11 subject to condonation being granted after verification of other statutory conditions. The Appeal of the Assessee was partly allowed.

7. Assessee aggrieved with the same has preferred this appeal. The Ld. Authorised Representative Ms. Smrithi Athreya submitted that Assessee has wrongly filed form number 10BB instead of form number 10B. Correct Form 10B was filed before processing of return. Such form number 10B duly filled was available before the Ld. Assessing Officer and therefore the rectification proceedings should have been carried out by the Central Processing Centre by allowing the exemption u/s. 11 of the Act. She submits that filing of form number 10B prior to completion of assessment proceedings satisfies the intent of the law that the audit report is available to the Ld. Assessing Officer at the time of processing the return and therefore the exemption claimed u/s. 11 of the Act could not have been denied. To support her contention, she placed reliance on the reasoning given in the decision of the Hon'ble Supreme Court in case of Commissioner of Income Tax versus Nagpur Hotel Owners Association [2001] 114 taxman 255 [SC] wherein it was held that the compliance of requirement to intimate the Ld. Assessing Officer with respect to Assessee's claim u/s. 11 of the Act can be at any time before the Assessment Proceedings. She further relied upon the decision of the Coordinate Bench in case of Sri Bhakta Samaj Vikas Education Trust [2025] 175 taxman.com 1076 and the decision of the Hon'ble Gujarat High Court in case of Babu Bhai Jariwala Charitable Trust [2025] 180 taxman.com 8 and several other judicial precedents. She submitted that Assessee's case is that form number 10B was filed on 04.11.2022 well before the impugned intimation issued u/s. 143 [1] of the Act on 25.11.2022 and therefore the Central Processing Centre had all the necessary information in form number 10B for allowing the exemption claimed u/s. 11 of the Act before issuance of impugned intimation. She further submitted that a bona fide delay in filing form number 10B would not defeat the Appellant's substantive right of claiming exemption. It was also her claim that filing of form number 10B is procedural in nature and delayed filing of form number 10B would not result in denial of exemption u/s. 11 of the Act. She referred to the rationale behind the above contention that the Appellant

being a charitable trust would not be disentitled for claiming exemption u/s. 11 of the Act merely on account of delayed filing of form number 10B. It was further submitted that filing of form is construed as a directory requirement which must be substantially complied with and in the present case of the Appellant the said requirement has been sufficiently complied with. She further referred to several judicial precedents of coordinate benches wherein on identical facts and circumstances the claim of the Assessee for exemption u/s. 11 and 12 of the acts were allowed. She referred to her paper book containing 97 pages where in several judicial precedents were cited.

8. Ld. Departmental Representative vehemently supported the order of the Central Processing Centre and submitted that the provisions of the Income Tax Act have specifically provided that the form number 10B is required to be filed before one month from the due date of filing of the return of income. The Assessee should have filed for number 10B before that time which was not filed. It was further submitted that if the Assessee files a wrong form, how it can be considered as right form in right time. Thus, there is no fault with these central processing centre in not allowing Assessee exemption u/s. 11 and 12 of the Act. He further submitted that statutory timelines are provided under the Income Tax Act and therefore such statutory timelines could not have been stated to be merely directory in nature. According to him, this is a substantive provision which requires to be fulfilled by the Assessee according to the provisions of the Act and it cannot be held to be directory in nature. Accordingly, the claim of the Assessee could not have been allowed by the Ld. CIT(A) also.
9. He submitted that if a such a view is taken that timelines prescribed under the Act can be held to be directive, then all timelines for doing anything or even for filing of Return of Income can also be merely directory in nature and issues of late filing of return and denial of claim under other section also renders the Act redundant. He also submitted that reading an Act in manner making a provision redundant is not permitted. He referred to the

decision in Principal Commissioner of Income-tax vs. Wipro Ltd. [2022] 140 taxmann.com 223 (SC)/[2022] 288 Taxman 491 (SC)/[2022] 446 ITR 1 (SC)[11-07-2022] where in para no 9 it is held that both the conditions of furnishing the declaration and to file the same before the due date of filing the original return of income are mandatory in nature.

10. He further stated that the Ld. CIT(A) has allowed the Appeal and directed the Ld. Assessing Officer to grant the deduction if the Assessee files an application for condonation of delay. He also directed the Ld. Assessing Officer to grant exemption u/s. 11 and 12 provided the delay is condoned by the Commissioner of Income Tax who is entrusted to condone the delay according to the provisions of the Act and relevant circular cited by him. He therefore submitted that there is no grievance caused by the order of the Commissioner of Income Tax Appeals and therefore the Appeal of the Assessee cannot be entertained.
11. We have carefully considered the contentions of the parties and considered the orders of the Ld. lower authorities. According to the provisions of section 12A of the Act, there are conditions for applicability of section 11 and 12 are specified categorically provides that the provisions of section 11 and section 12 shall not apply in a relation to the income of any trust unless certain conditions are fulfilled. According to subsection [b] the condition is prescribed that the Assessee, if the income exceeds the maximum amount which is not chargeable to income tax, the books of accounts of the trust are required to be audited before the specified date referred to in section 44AB and such report should be furnished in the prescribed form [10B] duly signed and verified. Thus, the timelines are mentioned in the Income Tax Act itself of filing such audit report. Further this is also stated to be a necessary condition for claiming the effect of provisions of section 11 and 12 off the Income Tax Act.
12. Before the Hon'ble Gujarat High Court, an issue arose that whether such timelines are though mentioned in the Income Tax Act itself are directory or mandatory. The Hon'ble High Court in its own wisdom has held that

provision of filling of the form in 10B is a substantive condition, but the timelines are directory in nature.

13. In the present case, the facts clearly shows that instead of filing form number 10B, Assessee filled form number 10BB. Later, when the mistake was realised, the Assessee filed correct form [form number 10B] however same was delayed as not filed in accordance with the provisions of the Income Tax Act wherein the timelines are stated. But admittedly Assessee corrected the mistake prior to the processing of the return and therefore it is apparent that prior to the processing of the return of the Assessee by Central Processing Centre relevant form No 10B was available before the Authorities. In fact, in this case a notice was issued to the Assessee about incorrect claim u/s. 143 [1] [a] of the Act on 27.10.2022. The reason of the notice was that the trust or institution registered under section 12A, 12AA, 12AB has not filed the audit report in form 10B one month prior to the due date for furnishing return under section 139[1]. Hence the exemption claimed in serial number 2 [exemption claimed under section 11 [1] [d]] and serial number 4 of part BT-I is not allowable in accordance with the provisions of section 12 A [1] [b] of the Income Tax Act. Assessee was given a time to respond up to 24.11.2022. The Assessee responded that Income Tax website had glitches and Assessee had initiated the filing of form 10B which was inadvertently not uploaded originally but form number 10BB was filed on 08.02.2022. The Assessee further submitted the response on 04.11.2022 where in the correct form was uploaded in form number 10B.
14. Identical issue arose before the Hon'ble Gujarat High court in Association of Indian Panel Board Manufacturer vs. Deputy Commissioner of Income Tax [2023] 157 taxmann.com 550 (Gujarat)/[2025] 482 ITR 54 (Gujarat)[21-03-2023] where in audit report in Form No. 10B though was not filed with the return of income, the same was available with the Assessing Officer when he processed the return of income u/s. 143(1). It was held that the condition for claiming exemption u/s. 11 was satisfied.

Although the requirement of furnishing audit report was mandatory, filing thereof is a procedural aspect. Even though Form No. 10B was filed at a later stage, when it was part of the record of the Assessing Officer in course of the processing of the return of income, the Assessing Officer could not have denied the exemption claimed by the Assessee u/s. 11(1) & (2) on the ground that the audit report was not filed. It further held that the import of section 119(2)(b) because the application contemplated thereunder is only additional remedy for the Assessee which could not be said to be compulsorily restored to by the Assessee. Circular No. 7/18, dated 20.12.2018 issued u/s. 119 could not, therefore, be said to have taken away the appellate remedy. It further held that the moot aspect thus centers around the requirement of the availability of the audit report when the Assessment was undertaken by the Ld. Assessing Officer even though the same may not have been filed along with the return of income. Filing of audit report is held to be substantive requirement but not the mode and stage of filing, which is procedural. Once the audit report in Form No. 10B is filed to be available with the Ld. Assessing Officer, before assessment proceedings take place, the requirement of law is satisfied.

15. Even Hon'ble High court went to the extent in saying that condonation request is no substitute for the Appeal remedy. Thus, though no condonation of delay application is filed before the Jurisdictional CIT, still in Appeal the Assessee can be granted benefit against the non-filing of form no 10B in time but before processing of return of income.
16. Further in Commissioner of Income Tax (Exemptions) vs. Laxminarayan Dev Shrishan Seva Khendra [2024] 167 taxmann.com 548 (Gujarat)[10-09-2024] held that where Assessee, a public charitable trust, did not upload audit report in Form 10B along with its return of income and CPC processed return under section 143(1) denying benefit of section 11, 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 to be condoned. Honourable High

court distinguished the decision of Hon'ble Supreme court in case of Wipro Limited [supra] holding that reliance placed on the decision of the Hon'ble Supreme Court in case of Wipro Ltd. (supra) would not be applicable in the facts of the case, as in the facts of the present case, the Assessee has claimed the exemption u/s. 11 r.w.s 12A(1)(b) of the Act which required the Assessee to file Audit Report in Form of 10B of the Act which has nothing to do with claiming 100% exemption of total income in respect of newly established 100% Export Oriented Undertakings u/s. 10B of the Act. Section 10B(8) of the Act requires the Assessee to file an undertaking before the due date of furnishing of return of income under sub-section (1) of section 139 of the Act before the Ld. Assessing Officer in writing that the provision of Section 10B of the Act may not be made applicable to him, otherwise the provision of this Section shall not apply to him for any of the relevant Assessment Year.

17. It is an established cannon that provision is mandatory where a law prescribes that an Act must be performed in a specific manner to acquire a right, particularly when coupled with another provision conferring immunity if the Act is not done accordingly. Procedural rules are generally not mandatory if defects can be rectified later, provided such rectification does not contravene another rule. As the provisions of section 119 (2) 9b) of the act gives powers for condonation, that itself makes such provisions directory in nature.
18. No other contrary decision of any other High Court was stated before us. Therefore, respectfully following the decision of the Hon'ble Gujarat High Court we hold that filing of Form 10B before the processing of the return available before CPC, though not filed according to the timelines prescribed under the Act, is sufficient compliance for the claim of exemption u/s11 and 12 of The Act.
19. Facts of the case for ITA No. 2492/Bangalore/ 2025 for 2022 - 23 in case of the Assessee are identical wherein the Assessee filed the return of income on 01.10.2022 claiming an exemption of Rs. 88,01,005/- u/s. 11 of

the Act but filed audit report in form number 10BB instead of 10B on 07.10.2022. Form number 10B was filed on 04.11.2022. Intimation was passed u/s. 143 [1] of the act on 31.03.2023 denying the benefit of section 11 and 12 of the Act. On filing rectification application, same was rejected. On filing the Appeal, same was allowed for statistical purposes asking the Assessee to file an application for condonation of delay before the jurisdictional Commissioner of Income Tax. Thus, there is an Appeal before us.

20. As the facts remained identical, we allow both the Appeals of the Assessee and direct the Ld. Assessing Officer to grant exemption u/s 11 and 12 of the Act considering form No 10B filed by Assessee before processing off the ROI.

Order pronounced in the open court on 07th April, 2026.

Sd/-
(SOUNDARARAJAN K)
JUDICIAL MEMBER

Sd/-
(PRASHANT MAHARISHI)
VICE-PRESIDENT

Bangalore,
Dated, the 07th April, 2026.

TNTS

Copy to:

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. CIT(A) | |

By order

Assistant Registrar,
ITAT, Bangalore