

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, KOLKATA

BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER
AND

SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER

आयकर अपील सं/ITA No.873 & 874/KOL/2025

(निर्धारण वर्ष / Assessment Year : 2020-2021 & 2023-2024)

Saraswati Devi Educational and Social Trust, Village: Ghanashyampur, PO: Purandarpur, Kandi, Murshidabad	Vs	CPC, Bangalore/ ITO Ward-1(3),Exemption, Kolkata
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PAN No. :AAHTS 4533 P

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से /Assessee by	:	Shri Soumitra Choudhury, Advocate
राजस्व की ओर से /Revenue by	:	Shri Sanat Kumar Raha, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	13/08/2025
घोषणा की तारीख/Date of Pronouncement	:	04/11/2025

आदेश / ORDER

Per Rajesh Kumar, AM :

These two appeals are filed by the assessee against the order passed by the Id. Addl./JCIT(A)-2, Ludhiana, both dated 06.03.2025, for the assessment years 2020-2021 & 2023-2024.

2. In both the appeals, the Id. AR submitted that the assessee is a trust and filed its return of income 7claiming exemption u/s.11 of the Act but the AO CPC rejected the said claim while processing and by passing order u/s 143(1) of the Act on the ground that the IT Return and Form 10B were filed belatedly.

3. Further the Id.AR submitted that the Id.AO before making adjustment in the intimation u/s.143(1) of the Act for both the years under consideration has not provided opportunity by sending intimation in terms of proviso to Section 143(1)(a) of the Act. Therefore, Id.AR submitted that the intimations issued by the for both the years under appeal deserved to be quashed.

3. On the other hand, Id.CIT-DR vehemently supported the orders of the lower authorities and submitted that the assessee was required to file Form 10B/10BB along with the return of income within the time prescribed under the Act, which has not been done by the assessee. Therefore, Id. CIT-DR submitted that the Id. CIT(A) has rightly rejected the claim of the assessee on account of late filing of Form 10B/10BB and prayed for upholding the same.

4. After hearing the rival contentions and perusing the material available on record, we find that the assessee has filed its return of income on 27.03.2021 for A.Y.2020-2021 and on 31.10.2023 for A.Y.2023-2024. The Form 10B and Form 10BB had been filed along with returns of income for the said assessment years under consideration on 27.03.2021 & 31.10.2023, respectively. The due date for furnishing Form 10B/10BB for the assessment year 2020-2021 & 2023-2024 was prior to one month before the due date for furnishing return u/s.139(1) of the Act. The intimations/orders u/s.143(1) of the Act had been issued for A.Y. on 24.12.2021 and for AY 2023-2024 on 04.12.2024. The CPC had denied the assessee the benefit of exemption u/s.11 & 10(23C) of the Act on the ground that the audit report in Form 10B/10BB had been filed belatedly. The Id CIT(A) dismissed the appeals of the assessee by observing that the in order claim exemption u/s 11 & 12 of the Act certain conditions are required to be satisfied which were not fulfilled by the assessee. It is noticed that the audit report was very much available with the Assessing Officer when the returns of income were processed and this is only a

technical/procedural breach. The coordinate bench of the Tribunal has been holding that such technical lapse cannot lead to denial of exemption u/s.11 & 12 of the Act that too in the intimation u/s.143(1) of the Act. This view is also supported by the decision of the Hon'ble Gujarat High Court in the case of Sarvodaya Charitable Trust, reported in [2021] 125 taxmann.com 75 (Gujarat), wherein the Hon'ble High Court has held that exemption u/s.11 of the Act cannot be denied for delayed filing of Form 10B. It has also been held by the Hon'ble High Court that as the assessee is a charitable trust who satisfies the conditions for availing the benefit of exemption, the assessee could not be denied exemption merely on the ground that Form 10B was filed belatedly especially when legislature had conferred wide discretionary powers to condone such delay on authorities concerned. Consequently, respectfully following the decision of the Hon'ble Gujarat High Court, the intimations issued u./s.143(1) of the Act by the Assessing Officer and confirmed by the Id. CIT(A) denying the benefit of Section 11 & 12 of the Act for A.Y.2020-2021 on account of delay in filing Form 10B and denying the benefit of Sections 11 or 10(23C) of the Act on account of belated filing of Form 10BB for A.Y. 2023-2024, are hereby quashed.

5. In the result, both appeals of the assessee are allowed.

Order pronounced in the open court on 04.11.2025.

Sd/-
(PRADIP KUMAR CHOUBEY)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(RAJESH KUMAR)

लेखा सदस्य/ ACCOUNTANT MEMBER

कोलकाता Kolkata; दिनांक Dated 04.11.2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, **कोलकाता** / DR, **आदेशानुसार/ BY ORDER,**
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

**(Assistant Registrar)
Income Tax Appellate
Tribunal, Kolkata**