



IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH

**Before: DR. BRR Kumar, Vice President
And Shri Siddhartha Nautiyal, Judicial Member**

**ITA No: 1240/Ahd/2025
Assessment Year: 2023-24**

Shri Taldhwaja Jain Swetamber Tirth Committee Navi Bazar, Talaja, Bhavnagar Gujarat-364140 PAN: AAATJ2126J (Appellant)	Vs	The ITO (Exemption), Bhavnagar, Gujarat-364001 (Respondent)
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**Assessee Represented: Shri Tushar Hemani, Sr. Advocate
Revenue Represented: Shri Pratik Sharma, Sr. D.R.**

Date of hearing : 07-08-2025
Date of pronouncement : 24-09-2025

आदेश/ORDER

PER : SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the appellate order dated 30.03.2025 passed by the Additional Commissioner of Income Tax (Appeals)-6, Mumbai arising out of the assessment order passed under section 143(1) of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) relating to the Assessment Year 2023-24.

2. The assessee has raised the following Grounds of Appeal:

- 1. The Ld. CIT(A) has erred in law and on facts of the case in upholding the action of the CPC in treating utilisation of accumulated amount of Rs.30,00,000/- as deemed income u/s. 11(3) of the Act and subjecting the same to tax as per Section 115BBI of the Act.*
 - 2. The Ld. CIT(A) has erred in law and on facts of the case in upholding the adjustment made by CPC u/s. 143(1)(a) of the Act based on amendment in Section 11(3) r.w.s. 115BBE of the Act which is not at all applicable in the present case.*
 - 3. Both the lower authorities have failed to appreciate that the amendment in Section 11(3) r.w.s. 115BBE of the Act is applicable prospectively.*
 - 4. The Ld. CIT(A) has erred in law and on facts of the case in confirming action of the ld. AO in levying interest u/s. 234A/B/C/D of the Act.*
 - 5. The Appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.*
3. The brief facts of the case are that the assessee, Shri Taldhwaja Jain Swetamber Tirth Committee, is a trust registered under section 12AB of the Income Tax Act, 1961 (the “Act”). The assessee filed its return of income for the Assessment Year 2023–24 on 26.10.2023, declaring NIL income after claiming exemption under section 11 of the Act. The return was processed by the Centralized Processing Centre (CPC), Bengaluru, and intimation under section 143(1) of the Act was issued on 09.12.2024. While the CPC accepted the assessee’s claim of exemption and accumulation of Rs.58,62,764/- under section 11 of the Act for the year under consideration, it made an adjustment of Rs.30,00,000/- by treating

it as taxable income under section 115BBI of the Act. This amount denoted the income that was accumulated under section 11(2) of the Act in Financial Year 2016–17 for a period of five years and was applied during Financial Year 2022–23. The CPC invoked the amended provisions of section 11(3) and section 115BBI inserted by the Finance Act, 2022, to tax the said amount in the year under consideration, treating it as deemed income on account of delayed utilisation.

4. Being aggrieved by this adjustment, the assessee filed an appeal before the CIT(Appeals). During the appellate proceedings, the assessee submitted that the amended provisions of section 11(3) of the Act, as introduced by the Finance Act, 2022, with effect from 01.04.2023, are applicable only to accumulations made in Assessment Year 2023–24 and onwards, and not to accumulations made in prior years like F.Y. 2016–17. It was further contended that under the unamended provisions of section 11(3) of the Act, income accumulated for five years could be utilised even in the sixth year, and such utilisation would not be deemed income. Hence, the addition of Rs.30,00,000/- was claimed to be bad in law and contrary to the provisions applicable at the relevant time.

5. However, the CIT(Appeals), after considering the submissions and relevant provisions, upheld the action of the CPC. The CIT(Appeals) observed that as per section 11(3) of the Act, the accumulated income should have been utilised within the period of five years from the date of accumulation. Since the accumulation was made in F.Y. 2016–17, the CIT(Appeals) held that the last year

for utilisation was F.Y. 2021-22, ending on 31.03.2022. As the amount of Rs.30,00,000/- was utilised in F.Y. 2022-23, which is beyond the permitted five-year period, the CIT(Appeals) held that the CPC was justified in treating it as deemed income under section 11(3) and taxing it under section 115BBI. Accordingly, the appeal filed by the assessee was dismissed.

6. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee. Before us, the Counsel for the assessee re-iterated the submissions made before CIT(Appeals). In response, the Ld. DR placed reliance on the observations made by the CPC and Ld. CIT(Appeals) in their respective orders.

7. We have heard the rival contentions and perused the material on record. In the case of **Meshri Mahajan Vanda vs. Income-tax Officer (Exemption) [2025] 178 taxmann.com 93 (Ahmedabad - Trib.)**, the Ahmedabad ITAT held that where assessee trust accumulated income pertaining to financial years 2016-17, assessee had time window till 31-3-2023 by which it could utilize accumulated income. The amendment brought in by Finance Act, 2022, did not debar assessee from availing said time window **in respect of existing accumulations and amendment had to be read prospectively in** respect of fresh accumulations for period pertaining to previous year starting from 1-4-2022 onwards. In the case of **Dadar Digamber Jain Mumukshu Mandal vs. Commissioner of Income-tax (Exemption) [2025] 176 taxmann.com 661 (Mumbai - Trib.)**, the ITAT held that

amendment to section 11(3)(c) by Finance Act, 2022 with effect from 1-4-2023 which omitted extra period of one year following expiry of initial period of accumulation of five years is prospective in nature and, thus, same would be applicable only to fresh accumulations from assessment year 2023-24 onwards. In the case of **Yashwantrao Chavan Maharashtra Open University vs. Commissioner of Income-tax (Exemption) [2025] 175 taxmann.com 988 (Pune - Trib.)** vide order dated 23-06-2025, the ITAT held that where trust had accumulated an amount during assessment year 2017-18 and had utilized the same by 31-3-2023 i.e. in 6th year of accumulation, it could not be taxed in 6th year i.e. assessment year 2023-24.

8. The sole issue involved in the present appeal relates to the taxability of the amount of Rs.30,00,000/- accumulated under section 11(2) of the Act in Financial Year 2016-17 and utilised during Financial Year 2022-23. The Central Processing Centre (CPC) and the CIT(Appeals) held that since the amount was utilised beyond the stipulated five-year period, it was rightly treated as deemed income under section 11(3) and taxed under section 115BBI of the Act, as per the amended provisions introduced by the Finance Act, 2022. However, we find that this issue is now squarely covered in favour of the assessee by several decisions of the coordinate benches of the ITAT referred to above. In view of the above consistent judicial precedents, we are of the considered opinion that the amendment brought in by the Finance Act, 2022, is prospective and does not apply to accumulations made prior to Assessment Year 2023-24. Since the assessee in the present case

had accumulated the amount of Rs.30,00,000/- in Financial Year 2016-17 and utilised the same in Financial Year 2022-23, i.e., within the extended time permitted under the unamended provisions of section 11(3) of the Act, the said amount cannot be treated as deemed income for the year under consideration.

9. Accordingly, the adjustment made by the CPC and confirmed by the CIT(Appeals) is not sustainable in law. We therefore set aside the order of the CIT(Appeals) and direct the Assessing Officer to delete the addition of Rs.30,00,000/- made under section 115BBI of the Act.

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

Order pronounced in the open court on 24 -09-2025

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT
Ahmedabad : Dated 24/09/2025

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

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