

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “C” BENCH: NEW DELHI**

**BEFORE SHRI YOGESH KUMAR U.S, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.3190/Del/2025
[Assessment Year : 2020-21]**

ITO Aaykar Bhawan, Faridabad Haryana-121001	vs	Manav Sanskar Shiksha Sanstha, 3 & 4, Ashoka Enclave, Part-1, Sector-4, Faridabad, Haryana-201004 PAN-AACAM0915H
APPELLANT		RESPONDENT
Revenue by		Shri Om Prakash, Sr. DR
Assessee by		Shri Ajay Kumar Agarwal, CA
Date of Hearing		24.03.2026
Date of Pronouncement		17.06.2026

ORDER

PER MANISH AGARWAL, AM :

The present appeal is filed by the Revenue against the order dated 21.03.2025 by Ld. Commissioner of Income Tax (A), National Faceless Appeal Centre (“NFAC”), Delhi [“Ld. CIT(A)”] in Appeal No. NFAC/2019-20/10434387 passed u/s 250 of the Income Tax Act, 1961 [“the Act”] arising from the intimation order dated 24.12.2021 passed u/s 143(1) of the Act pertaining to Assessment Year 2020-21.

2. Brief facts of the case are that the assessee is a registered society, doing charitable activity of imparting education and registered u/s 12AA of the Act in terms of approval granted by Ld. CIT(A), Faridabad dt 15.04.2013 and subsequently, renewed by PCIT vide order dated 08.07.2024. The return of income for the year under

appeal was filed in Form ITR 7 on 27.12.2020 loss of 13,76,228/- being excess of expenditure over income and has not exemption u/s 12 of the Act. The CPC in terms of the order u/s 143(1) of the Act denied the exemption as the assessee has not filed Form 10B alongwith the return of income filed and create a demand on gross receipts. Thereafter, the assessee a rectification application however, as the assessee has not filed Form 10B before the filing of return of income and power of condonation of delay in Form 10B as per section 119(2)(b) of the Act is with the concerned PCIT/CIT/DIT therefore, the CPC has rejected the application of the assessee filed u/s 154 of the Act.

3. Against the said order, assessee preferred an appeal before Id. CIT(A) who vide order dated 21.03.2025 has held that the assessee has filed the return of income showing excess of expenditure over income of IRN 1376228/- and not claimed any exemption u/s 11 of the Act. Id. CIT(A) further observed that assessee since registered u/s 12A of the Act therefore, is also eligible for exemption u/s 11 of the Act. However, as the assessee has net deficit therefore, observed that there is no reason to tax the entire gross receipts and accordingly, deleted the addition made and allowed the appeal of the assessee.

4. Against the said order, Revenue is in appeal before the Tribunal wherein the Revenue has challenged the action of Id. CIT(A) in holding that tax is to be levied on net income and further allowed the

exemption though the assessee has not filed Form 10B. The grounds of appeal so raised by the Revenue are as under:

1. *“Whether on the facts and circumstances, the ld. CIT(A) is justified in directing the AO to reduce the demand created u/s 143(1) merely observing that the assessee has registration u/s 12A granted by the CIT, Faridabad?”*
2. *Whether on the facts and circumstances, the ld. CIT(A) has erred in ignoring the fact that assessee did not file audit report u/s 12A(1)(b) of the Income Tax Act, 1961, while allowing the appeal of the assessee?*
3. *It is prayed that the order of the ld. CIT(A) be set aside/ revoked and that of the AO-CPC may be restored.”*

5. Before us, Ld. Sr. DR submits that the assessee though granted approval u/s 12A of the Act which fact is not in dispute however, the assessee has never filed Audit Report in Form 10B therefore, the assessee is not entitled for the benefit exemption u/s 11 and 12 of the Act. The Ld. CIT(A) submits that under these circumstances, the gross receipt of the assessee should be brought to tax. He, therefore supported the order of CPC and requested for the restoration of the same.

6. On the other hand, Ld.AR for the assessee submits that assessee is having registration u/s 12A of the Act and filed the return of income within the due date. Ld. AR submits that since the assessee has deficit from the activities and there was no surplus, it has not claimed exemption u/s 11/12 of the Act and therefore, merely non-filing the Audit Report in Form 10B, gross receipt cannot be taxed. For this, reliance is placed on the judgment of **Hon’ble Delhi High Court** in the case of **Petroleum Sports Promotion**

Board reported in **362 ITR 235 (Delhi)** and of the Co-ordinate Bench of the Delhi Tribunal in the case of **Sanatan Dharam Mandir Sabha** vs ITO in ITA No. 5791/Del/2019 order dated 13.04.2022. He prayed accordingly.

7. Heard the parties and perused the material available on record. In the instant case, admittedly, assessee has never filed Audit Report in Form 10B for claiming exemption u/s 11/12 of the Act. Though it is registered u/s 12A of the Act since 2013 and claiming exemption on regularly u/s 12A of the Act which was allowed to it in preceding Assessment years where in some of the years, orders were passed u/s 143(3) of the Act. As the assessee has not filed the Audit Report mandatory for claiming exemption u/s 12A in Form 10B, the assessee society is not entitled for such exemption. However, it is settled law that in any case, the gross receipts cannot be brought to tax when the expenditure incurred were for the purpose of achievement of objects of the society and this fact was never be in dispute.

8. Since there is no dispute about the application of the receipts for the furtherance of the objects of the society, thus, by following the order of Hon'ble Jurisdictional High Court in the case of Petroleum Sports Promotion Board (supra), we are of the considered view that Ld. CIT(A) has rightly allowed deduction towards the expenditure incurred against the gross receipts. Accordingly, though the assessee is not entitled for exemption u/s 12 of the Act as no Audit Report was filed as prescribed under the Act, however, we find no error in the

order of ld. CIT(A) in allowed the deduction of the expenditure incurred and the order of ld. CIT(A) is confirmed to this extent. Accordingly, Ground of appeal 1 of the revenue is dismissed and Ground of appeal No.2 is allowed.

9. In the result, appeal of the Revenue is partly allowed.

Order pronounced in the open Court on 17.06.2026.

Sd/-

**(YOGESH KUMAR U.S)
JUDICIAL MEMBER**

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

Date:-17.06.2026

Amit Kumar, Sr.P.S

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
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ASSISTANT REGISTRAR
ITAT, NEW DELHI