



आयकर अपीलीय अधिकरण, बेंगलुरु पीठें, बेंगलुरु
INCOME TAX APPELLATE TRIBUNAL,
BANGALORE BENCHES, BANGALORE

BENCH: B

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER

AND

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA 973/BANG/2026 (निर्धारण वर्ष/Assessment Year: 2023-2024)		
PRAGATHI TRUST DAKSHINA BHARATHA MAHILA SAMAJA DBMS PREMISES, WHITEFIELD RAILWAY STATION, PARELLEL ROAD, KADUGODI, BANGALORE - 560 067, BENGALURU- 560067, KARNATAKA	Vs.	INCOME-TAX OFFICER, WARD 2, BANGALORE UNITY BUILDING ANNEXE, MISSION ROAD, BANGALORE - 560 027 BENGALURU-560027, KARNATAKA
अपीलार्थी Appellant		प्रत्यर्थी Respondent
Permanent Account Number of Assessee:		AABTP8495P
अपीलार्थी द्वारा/Appellant represented by:		Sri. V. Narendra Sharma – Advocate
प्रत्यर्थी द्वारा/Respondent represented by:		Sri. Pradeep S – Addl. CIT
सुनवाई की तारीख / Date of conclusion of hearing:		30-Sept-2026
घोषणा की तारीख / Date of pronouncement:		13-Oct-2026

आदेश / ORDER

PER SANDEEP SINGH KARHAIL, JUDICIAL MEMBER:

The assessee has filed the present appeal against the impugned order dated 27.02.2026, passed under section 250 of the Income Tax Act, 1961 (*“the Act”*) by the learned Additional/Joint Commissioner of Income Tax (Appeals), Varanasi [*“learned Addl./Joint CIT(A)”*], for the assessment year 2023-24.

2. In this appeal, the assessee has raised the following grounds: -

- 1. The orders of the authorities below in so far as they are against the appellant is opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.*
- 2. The learned Addl/JCIT [A] is not justified in upholding the total income of the appellant trust determined in the Intimation u/s. 143[1] of the Act at Rs. 1,19,41,841/- by denying the appellant's claim for allowance of capital expenses of Rs. 40,63,034/- and accumulation u/s 11[1] of the Act of Rs. 78,78,807/- under the facts and in the circumstances of the appellant's case.*
- 3. The learned Addl/JCIT [A] failed to appreciate that the Form 10B was filed along with the return of income and the same was available on records before the Intimation u/s 143[1] of the Act dated 18/11/2024 was issued and thus, the appellant was entitled to exemption u/s 11 of the Act under the facts and in the circumstances of the appellant's case.*
- 4. Without prejudice to the right to seek waiver with the Hon'ble CCIT/DG, the appellant denies itself liable to be charged to interest u/s. 234-B and 234-C of the Act, which under the facts and in the circumstances of the appellant's case and the same deserves to be cancelled.*

3. The solitary grievance of the assessee is the denial of exemption under section 11 of the Act, on account of delay in filing of Form No. 10B.

4. We have considered the submissions of both sides and perused the materials available on record. The brief facts of the case are that the assessee is a charitable trust running educational institutions under the names Pragathi School, Pragathi Pre University, and Pragathi Degree College. The assessee is registered under section 12A of the Act. For the year under consideration, the assessee filed its return of income on 15.11.2023, declaring a total income of Rs. NIL, after claiming exemption under section 11 of the Act. Along with its return of income, the assessee filed Form No. 10B. The return filed by the assessee was processed on 18.11.2024 vide intimation issued under section 143(1) of the Act, whereby the total income of the assessee was determined at Rs. 1,19,41,841/-, denying the exemption claimed under section 11 of the Act on the basis that Audit Report in Form No. 10B was not furnished by the assessee within the prescribed time.

5. The learned Addl./Joint CIT(A), vide impugned order, dismissed the appeal filed by the assessee and held that the compliance of filing the Audit Report by the due date is a statutory pre-condition for availing exemption under section 11 of the Act and the CPC system processes such claims strictly on the basis of statutory timelines and electronic records. The learned Addl./Joint CIT(A) further held that, in the present case, the due date for filing Form No. 10 was 31.10.2023, while the assessee filed Form No. 10 on 15.11.2023, i.e., beyond the prescribed due date. Accordingly, it was held that since the Audit Report was not filed within the prescribed time, the exemption under section 11 of the Act could not be granted. Being aggrieved, the assessee is in appeal before us.

6. During the hearing, the learned Authorised Representative (“learned AR”) submitted that this issue is no longer *res integra* and the delay in filing Form No. 10B has been condoned by Hon’ble High Courts in various cases. The learned AR further submitted that Audit Report in Form No. 10B was filed along with the return of income on 15.11.2023 and therefore, the same was very much available at the time of processing of the return of income under section 143(1) of the Act. The learned AR submitted that no prejudice whatsoever was caused to the Revenue on account of such delay.

7. We find that the Hon’ble Bombay High Court, in the case of St. Thomas High School Vs. Commissioner of Income Tax (Exemption), in [Writ Petition (L) No.14483 of 2025], vide judgment dated 02.09.2025, condoned the delay in filing Form No.10B by the taxpayer, by observing as follows: -

“9. Having heard the learned Counsel for the parties, we agree with the contentions of the Petitioner. We find that admittedly, there was only a 29 day delay in filing Form No. 10B. In the present case, when one considers that Respondent No.1 never doubted the factual situation put forth by the Petitioner to explain the delay, Respondent No.1 ought to have condoned the delay. We find that if this delay is not condoned, there will be genuine hardship to the Petitioner, inasmuch as, the Petitioner would be denied the exemption otherwise claimed under the provisions of Section 11 of the Act and which is a substantial amount.

10. We are of the view that Respondent No.1 ought to have taken a justice oriented approach rather than a pedantic one, and condoned the delay. We also find that in similar facts, this Court in the case of *Mirae Asset Foundation (supra)*, *Sau. Dwarkabai tai Karwa Charitable Trust (supra)* and *Kotak Family Foundation (supra)* has taken a similar view and condoned the delay. Even the Hon'ble Gujarat High Court in the case of *Sarvodaya Charitable Trust (supra)* took the view that in cases like the present one (delay in filing Form No. 10B), the approach of the authorities ought to be equitable, balancing and judicious and availing of exemption should not be denied merely on the bar of limitation. This is more so, when the legislature has conferred wide discretionary powers to condone the delay on the authorities concerned. The relevant portion of this decision reads thus:-

“31. Having given our due consideration to all the relevant aspects of the matter, we are of the view that the approach in the cases of the present type should be equitable, balancing and judicious. Technically, strictly and liberally speaking, the respondent no. 2 might be justified in denying the exemption under section 12 of the Act by rejecting such condonation application, but an assessee, a public charitable trust past 30 years who substantially satisfies the condonation for availing such exemption, should not be denied the same merely on the bar of limitation especially when the legislature has conferred wide discretionary powers to condone such delay on the authorities concerned.

32. We may also refer to the decision of this Court in *CIT v. Gujarat Oil and Allied Industries Ltd. [1993] 201 ITR 325 (Guj.)*, wherein it is held that the provision regarding furnishing of audit report with the return has to be treated as a procedural proviso. It is directory in nature and its substantial compliance would suffice. In that case, the assessee had not produced the audit report along with the return of income but produced the same before the completion of the assessment. This Court took the view that the benefit of exemption should not be denied merely on account of delay in furnishing the same and it is permissible for the assessee to produce the audit report at a later stage either before the Income Tax Officer or before the appellate authority by assigning sufficient cause.”

8. We further find that the Hon'ble Madras High Court in *Suga Jeeva Oozhiyangal vs. CIT(Exemptions)*, reported in (2026) 185 taxmann.com 218 (Madras), held that the denial of exemption under section 11 of the Act on the basis of delayed filing of Form No. 10B is unjust, since substantial exemption relief could not be refused merely on a procedural breach when the assessee was otherwise entitled to it under the law.

9. We find that similar findings were rendered by the Coordinate Bench of the Tribunal in *Anasuya Foundation vs. Income Tax Officer (Exemptions)*, reported in (2026) 186 taxmann.com 1074 (Bangalore – Trib.). In this decision, the

Coordinate Bench held that the benefit of section 11 of the Act cannot be denied merely due to procedural delay in submitting Form No. 10B electronically.

10. We further find that similar findings were also rendered by the Coordinate Bench of the Tribunal in M/s. Aditi Educational Trust vs. ITO, in ITA No. 2491 & 2492/Bang/2025, after following the decisions of the Hon'ble Gujarat High Court. Accordingly, the Coordinate Bench held that filing of Form No. 10B before processing of the return of income by CPC, though not filed according to the timelines prescribed by the Act, is sufficient compliance for the claim of exemption under section 11 of the Act.

11. In the present case, it is an admitted fact that the assessee filed Form No. 10B along with the return of income on 15.11.2023, i.e., beyond the specific due date. Thus, it is undisputed that the Audit Report in Form No. 10B was not filed by the assessee within the prescribed limitation period, resulting in a delay. Further, it is also evident that the Audit Report in Form No. 10B was available on record before processing the return under section 143(1) of the Act.

12. From the careful perusal of the judicial pronouncements as noted above, we find that similar delay has been condoned by the Hon'ble Courts. Accordingly, respectfully following the decisions cited supra, we condone the delay in filing Form No. 10B and restore the issue to the file of the Jurisdictional Assessing Officer ("AO") to verify the claim of the assessee under section 11 of the Act on merits as per law. With the above directions, the impugned order is set aside. Needless to mention, the assessee shall be provided reasonable opportunity of hearing, and the assessee shall furnish all the requisite details as may be sought by the Jurisdictional AO. Thus, the assessee is directed to fully cooperate in the assessment proceedings. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

13. In the result, the appeal by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 13-Oct-2026.

Sd/-

Sd/-

(WASEEM AHMED)
ACCOUNTANT MEMBER

(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Bangalore,

Dated, the 13-Oct-2026

VM

Copy to:

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2	INCOME-TAX OFFICER, WARD 2, BANGALORE, UNITY BUILDING ANNEXE, MISSION ROAD, BANGALORE - 560 027, BENGALURU-560027, KARNATAKA
3	THE PCIT / CIT,
4	THE D.R., ITAT, BANGALORE BENCH
5	GUARD FILE

BY ORDER

**ASSISTANT REGISTRAR
I.T.A.T., BANGALORE**

P G

RAJANI

Digitally signed
by P G RAJANI
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