IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, B: NEW DELHI

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SMT. RENU JAUHRI, ACCOUNTANT MEMBER

ITA No.- 5310/Del/2026
[Assessment Year: 2022-23]

Delhi Public School Ghaziabad Society, Site No. -3, Meerut Road, Ghaziabad-201003, Uttar Pradesh.	Vs	DCIT, Exemption, CGO Complex,-II, Purani Hapur Chungi, Ghaziabad-201003.
PAN- AAAAD9571A		
Assessee		Revenue

Assessee by	Shri Sahil Sharma, Adv.
Revenue by	Shri Om Prakash, CIT(DR)

Date of Hearing	**21.09.2026**
Date of Pronouncement	**23.10.2026**

ORDER

Per Renu Jauhri, Accountant Member:

This appeal by the Assessee is directed against the order dated 28.03.2026 of the ld. Commissioner of Income Tax (Exemption), [hereinafter referred to as the 'Ld. CIT(E)] passed under section 263 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') pertaining to Assessment Year (A.Y.) 2022-23.

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2. The assessee has raised the following grounds of appeal: -

" 1. That on the facts and circumstances of the case and in law, the order dated 28.03.2026 passed by the Ld. CIT Exemption, Lucknow u/s 263 of the Income-tax Act, 1961 ("the Act"), to set aside the order dated 27.02.2024 passed by the Ld. AO u/s 143(3) of the Act is void-ab-initio due to want of jurisdiction and liable to be quashed.

2. That on the facts and circumstances of the case and in law, the Ld. CIT Exemption has erred in revising the order u/s 143(3) of the Act without appreciating that the twin mandatory conditions namely the assessment order u/s 143(3) of the Act is erroneous and prejudicial to the interest of Revenue are not satisfied in the present appeal.

3. That on the facts and circumstances of the case and in law, the Ld. CIT Exemption has failed to appreciate that an inquiry was conducted by the Ld. AO which is a matter of record before completing assessment u/s 143(3) and hence it is not a case of no inquiry and that there is no occasion to invoke revisionary powers u/s 263 of the Act.

4. That on the facts and circumstances of the case and in law, the Ld. CIT Exemption has erred in invoking Explanation 2 to Section 263 in a case where enquiries were duly conducted and the view taken by the AO was a plausible view.

5. That on the facts and circumstances of the case and in law, the Ld. CIT Exemption has erred in invoking jurisdiction u/s 263 of the Act, by substituting his own view in place of the view taken by the AO, which is impermissible in law.

6. That on the facts and circumstances of the case and in law, the Ld. CIT Exemption has erred in holding that exemption u/s 11(2) was wrongly allowed, without appreciating that Form 10 was filed within the time permitted under law and applicable CBDT Circulars.

That the Appellant craves leave to add, delete, modify or vary any of the grounds of appeal at the time of hearing."

3. Brief facts are that the assessee filed its return for A.Y. 2022-23 on 28.10.2022 declaring NIL income. The case was selected for scrutiny and assessment was completed at Nil income vide order u/s 143(3) r.w.s. 144B dated 27.02.2024 without making any additions.

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3.1 Thereafter, CIT(E) issued a show-notice notice u/s 263 of the Act on 05.09.2025 for the reason that Form 10 was submitted belatedly and therefore exemption u/s 11(2) of Rs. 3,18,67,000/- was erroneously allowed by the AO.

3.2 The assessee contended that the ITR alongwith Form 10 was filed on 28.10.2022 i.e. within time u/s 139(1) of the Act. However, the CIT(E) observed that as per section 11(2), Form 10 had to be furnished at least two months prior to the deadline u/s 139(1) and held that the order of the AO to the erroneous as well as prejudicial to the interest of Revenue in view of Explanation 2 to section 263 of the Act on this account. Accordingly, order u/s 263 dated 28.03.2026 was passed setting aside the assessment order u/s 143(3) with direction to pass fresh order after examination of the issue as above.

3.3 Aggrieved, the assessee has filed an appeal before the Tribunal challenging the order of CIT(E).

4. Before us, Ld. AR has submitted that for the A.Y. 2022-23, Form 10 had to be filed on or before the due date of filing of return. The requirement to furnish the Form 10 at least two months prior to the due date specified u/s 139(1) came into force from A.Y. 2023-24 as this change was introduced by Finance Act, 2023. It is, therefore, argued that before A.Y. 2023-24, the assessee was required to file Form 10 on or before the due date of filing of ITR. Hence, it has been contended by the

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Ld. AR that there was no delay in filing of Form 10 for A.Y. 2022-23 in the instant case and the provisions of section 263 of the Act, were invoked by the CIT(E) on an incorrect premise.

4.1 Ld. DR, on the other hand, has strongly relied on the order of the CIT(E).

5. We have heard the rival submissions and perused the material available on record as well as relevant provisions of the Act.

5.1 Admittedly, the assessee had filed Form No. 10 on 28.10.2022 for A.Y. 2022-23. The due date for filing the Income Tax Return in Form 7 for a trust was 31.10.2022 which was further extended by the CBDT to 7.11.2022 vide Circular No. 20/2022. A perusal of the Explanation 1 to section 11(2) shows that the requirement to furnish Form No. 10, at least two months prior to the due date was inserted by the Finance Act 2023 and was applicable for and from A.Y. 2023-24. Accordingly, we hold that the proceedings u/s 263 were initiated by the CIT(E) on incorrect appreciation of the facts and the provision of section 11 of the Act as applicable for the year under consideration and hence we hereby quash the order u/s 263 of the Act dated 28.03.2026.

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6. In the result, appeal of the assessee is hereby allowed.

Order pronounced in the open court on 23.10.2026

Sd/-	**Sd/-**
[VIKAS AWASTHY]	**[RENU JAUHRI]**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated- 23.10.2026.

Pooja.

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

SHASHI KANT PANDEY
Digitally signed by SHASHI KANT PANDEY
Date: 2026.11.18 11:30:01 +05'30'

Asst. Registrar,
ITAT, New Delhi,