INCOME TAX APPELLATE TRIBUNAL, PUNE

"B" BENCH

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

AND

DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA 1069/PUN/2026 निर्धारणवर्ष/Asst. Year:2024-25) Permanent Account Number: AAITS6440E		
Shri Sadguru Dada MaharajSangavadekarSeva Pratishthan R.S. No. 697/B, Vishwapandhari, B Ward, Opp. I T Park, Kolhapur-416012 MAHARASHTRA.	**Vs.**	ITO, Exemption Ward Aayakar Bhawan, 31-c/2, E Ward, Tara Bai Park, Kolhapur-416003, MAHARASHTRA.
(**अपीलार्थी**Appellant)		(**प्रत्यर्थी**Respondent)

निर्धारितीद्वारा/Assessee represented by:	Shri AjinkyaJagoje (Virtual).AR
राजस्वद्वारा/Revenue represented by:	Ms.Bhavya, I.V.JCIT.Sr.DR

सुनवाईकीतारीख/Date of conclusion of hearing:	15-07-2026
घोषणाकीतारीख/Date of pronouncement:	20-07-2026

आदेश / ORDER

PER PAVAN KUMAR GADALE, JM:

The assessee has filed the appeal against the order of Addl/JCIT(A)-3, Ahmadabad passed under section 250 of the Income Tax Act. The assessee has raised the following grounds of appeal as under:-

1. *From 10BB for A.Y. 2024-25 was electronically uploaded by the appellant on 21st October 2024 (Acknowledgement No. 624446710211024) and was very much available on the electronic records of the Income Tax Department.*
2. *The CPC processed the return of income only on 23rd December 2025, i.e., more than two months after the upload of Form 10BB. At the time of proceeding, the audit report was available on record and was accessible to the CPC.*
3. *The denial of exemption in such circumstances where the form was available on record at the time of proceedings is factually perverse and contrary to the consistent view of this Tribunal and the High Court that where the audit report is on record at the time processing or assessment, exemption cannot be denied on the ground of belated filing."*

2. The brief facts of the case are that, the assesseeis a charitable trust registered u/sec12AA of the Act.. The assessee has filed the return of income for the A.Y. 2024-25 on 21.10.2024 disclosing a total income of Rs.NIL after claiming exemption u/sec11 of the Act within the extended due date u/sec139(1) of the Act on 15 November 2024. Further the assessee has filed Form.No.10BB electronically on 21 October 2024.Subsequently, the return of income was processed u/sec 143(1) of the Act and it was found that the Audit Report in Form.10BB was not filed one month prior to due date of filling the return of income u/sec139(1) of the Act and the assessee has violated the provisions and the availing the benefit u/sec 11 and u/sec11(1)(a) of the Act is denied and assessed the total income of Rs.58,50,580/- vide order dated 23.12.2025.

3. Aggrieved by the order, the assessee has filed the appeal before the CIT(A). Whereas the CIT(A) has considered the grounds of appeal, statement of facts, submission of assessee and findings of assessing officer and but has confirmed the action of the CPC/A.O and dismissed the assessee's appeal. Aggrieved by the order of the CIT(A), the assessee has filed the appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in sustaining the denial of the claim of exemption overlooking the facts and submissions. The CIT(A) has not considered the information that the audit report in Form,no.10BB was filed electronically on 21.10.2024 much before the processing of return of income u/sec143(1) of the Act. The Ld.AR substantiated the submissions with the factual paper book and judicial decisions and prayed for allowing the appeal. Per contra, the Ld.DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue envisaged by the Ld.AR that the CIT(A) has erred in sustaining the denial of claim of the assessee for delay in filing the Form No. 10BB as the assessee has not filed Form No. 10BB on or before due date of filling the return of income u/sec139(1) of the Act but the assessee has filed Form.No.10BB on 21.10.2024 before processing of return of income u/sec143(1) of the Act dated 23.12.2025 The Ld. AR has demonstrated the facts of preparation of Form.No.10BB and acknowledgement copy of online submission placed at page 8 to 9 of the paper book and the CPC/AO has passed the order u/sec143(1) of the Act on 23.12.2025. The contentions of the Ld.AR that form No.10BB was filed before the processing of return of income u/sec143(1) of the Act. We find the Honble

Tribunal in ITA No.1185/JPR/2025 for A.Y.2023-24 dated 24.12.2025 in the case of Kinki Vs I T O (Exemption) has dealt on the similar issue at Para 3 to 9 of the order as under:-

“3. At the outset itself, it was stated that the solitary issue in the present appeal pertains to denial of exemption claimed by the assessee u/s. 11/12 of the Act, for the reason that Form 10BB was filed delayed by the assessee. It was pointed out, that the impugned assessment year was AY 2023-24 ,the due date of furnishing return of income for the impugned year was 30-11-23and the assessee was required to file Form 10BB one month prior to the said due date, however the said form was filed delayed on31.03.2024. The assessee, it was pointed out, being a charitable trust had claimed its entire income exempt in terms of the provisions of Section 11 of the Act. However, due to delayed filing of Form 10BB the Centralized Processing Centre (CPC) denied assessee claim of exemption while processing its return u/s 143(1)(a) of the Act and determined income at Rs.18,49,950/-. The same , it was pointed out, was confirmed by the ld. CIT(A) stating that neither the AO nor the first appellate authority had been granted powers by the Act to condone the delay in filing Form 10BB, which power it was stated vested only with the jurisdictional CCIT/PCIT.

4. Learned counsel for the assessee contended that the requisite Form 10BB had been filed by the assessee before its return of income was processed by the CPC u/s. 143 (1)(a) of the Act. He pointed out that while the assessee’s income was processed on 19.12.2024, Form 10BB had been filed much earlier on 31.03.2024. He contended that Courts in a plethora of decision have held that the requirement of filing Form 10BB was only a procedural requirement and not a substantive condition for claiming exemption u/s. 11 of the Act and if filed during pendency of assessment proceedings it would suffice for grant of exemption. He therefore pleaded that the order of the Ld.CIT(A)being incorrect in law be set aside and the assessee be granted exemption u/s 11/12 of the Act. Ld. DR, on the other hand relied on the order of the ld. CIT(A).

5. I have heard the rival contentions. The issue before me is the denial of exemption u/s. 11 of the Act to the assessee being a charitable trust on account of delay in filing Form 10BB .

As rightly pointed out by the Ld. Counsel for the assessee Hon'ble High Courts and the coordinate Benches of the ITAT have consistently held the requirement of filing Form 10BB to be a mere procedural requirement and not a mandatory condition therefore holding the denial of deduction for the said reason to be not sustainable in law. It has been held that as long as the requisite form is filed and is made available during assessment proceedings for scrutiny, it is sufficient compliance with the condition of filing Form 10BB and the mere fact of delay in the same would not adversely affect the right of the assessee to claim exemption u/s. 11 of the Act. In this regard, I draw support from the judgment of the Hon'ble Gujarat High Court in the case of Commissioner of Income Tax (Exemption) vs. Laxmanarayan Dev Shrishan Seva Khendra [2024] 167 taxmann.com 548 (Gujarat) [10.09.2024],wherein it was held at paragraph Nos. 7 & 9 of the order as under:- ………………………

"7. Reference to the aforesaid decision has no connection whatsoever remotely to the facts of the present case and therefore, in the facts of the present case, the Tribunal has rightly followed the decision of this Court in case of Sarvodaya Charitable Trust v. ITO (Exemption) in Application No.6097 of 2020 decided on 09th December, 2020/[2021] 125 taxmann.com 75/278 Taxman 148 (Gujarat) as well as the decision in case of Social Security Scheme of GICEA (supra) to uphold the decision of the CIT (Appeals), wherein this Court has held that the approach of the authority in such type of cases should be equitable, balancing and judicious. In the facts of the case, when the assessee has already filed the audit report in Form 10B electronically on 27.02.2021 during pendency of appellate proceedings along with copy of audited financial statements, delay in filing the said form is rightly condoned by CIT(A) and the Tribunal. ………………………

9. In view of the foregoing reasons, we are of the opinion that no question of law much less any substantial question of law arises from the impugned order of the Tribunal. The Appeal is accordingly dismissed."

6. The Hon'ble Gujarat High Court reiterated this position of law in the case of Parul Mahila Pragati Mandal vs. Income-tax Officer (Exemption) [2025] 175 taxmann.com 922 (Gujarat) [30.04.2025]wherein it was held at paragraph Nos. 7.1, 7.2 & 8 of the order as under:- …………………….

"7. DISCUSSION & FINDINGS :-

7.1 In Association of Indian Panel Board Manufacturers v. Dy.CIT [2023] 157 taxmann.com 550 /482 ITR 54 (Gujarat), this Court has categorically held that filing of Form 10B is only a procedural requirement and the failure to file Form 10B along with the return of income cannot be treated as mandatory requirement for the purpose of claiming exemption under Section 11 and 12 of the Act and even if such Form is filed at a later stage, the Assessee will still be entitled to claim exemption. The aforesaid decision in the case of Association of Indian Panel Board (supra) has been followed by this Court in case of CIT (Exemption) v. Anjana Foundation [2024] 168 taxmann.com 462 (Gujarat). Thus, it will be seen that the Petitioner-Assessee could not be denied the exemption merely because Form 10B was not filed within time. In such circumstances, the denial on the part of the Department to condone the delay in complying with the procedural requirement on the part of the Assessee would result in denial of a substantive *right of the Assessee to claim an exemption, which would in turn, result in the Assessee having to pay the demanded amount, thereby unjustly enriching the Department.In such view of the matter in our opinion, the Petitioner would have been caused undue hardship which the Department could have alleviated by allowing the Assessee's application under Section 119(2)(b) of the Act, which is rejected only on the technical grounds.*

7.2 This Court in several recent decisions, namely in the case of Royal Led Equipments (P.) Ltd. v. Chief Commissioner of Income-tax [2025] 174 taxmann.com 61 (Gujarat)/Special Civil Application No. 14786 of 2024 and in the case of Surat Smart City Development Ltd. v. Principal Commissioner of Income-tax [2024] 169 taxmann.com 222 (Gujarat)/Special Civil Application No. 10397 of 2024 has directed the Department to consider the Assessee's applications under Section 119(2)(b) of the Act to ensure that the purpose for which the said provision remains on the statute book is carried out and the said provision is not rendered illusory or becomes a dead letter.

8. In view of the aforesaid discussion, the present Petition succeeds and accordingly allowed. The impugned Orders dated 31.03.2021, 30.4.2021 and the Demand Notice dated 06.05.2021 are hereby quashed and set aside. The Respondent No.1 is directed to pass a fresh order upon the Petitioner's application under Section 119(2)(b) of the Act dated 23.02.2021 within a period of Twelve (12) weeks from the date of receipt of a copy of this judgment and order in light of the findings in Paragraph Nos. 7.1 to 7.2 hereinabove. Rule is made absolute to the aforesaid extent. No order as to costs.”

7. The coordinate Benches of the Tribunal have also consistently held that delayed filing of Form 10BB is a procedural lapse and cannot be the basis for denial of exemption u/s. 11 and 12 of the Act. Reference may be made to decision of the ITAT Ahmedabad Bench in the case of Shree Vardhman Stanakvasi Jain Shravak Trust vs. Income-tax Officer [2025] 172 taxmann.com 165 (Ahmedabad Trib.) [14.02.2025], wherein it was held at paragraph Nos.9, 10, 11 & 12 of the order as under:- ……………………………

“ 9. On going through the facts of the instant case, we observe that the adjustments made by CPC have been confirmed by the JCIT(A) on three grounds. Firstly, the assessee had not filed the return of income within the prescribed time limit. Secondly, the assessee had not filed Form 10B within the prescribed time limit. Thirdly, this addition was permissible by way of adjustment under Section 143(1) of the Act. Therefore, on account of the above reasons, the assessee was not eligible for grant of exemption under Sections 11 & 12 of the Act, and hence the corpus donation was liable to be taxed as income in the hands of the assessee. In response, the Counsel for the assessee submitted before us that in the return of income, it was specifically submitted that such amount of Rs. 17,96,000/- received by the assessee was a voluntary donation and not a corpus donation. Secondly, since the income of the assessee, as per the Profit & Loss account, was below the taxable limit, the assessee trust was not under an obligation to file return of income and

therefore, also not an obligation to file Form 10B as well. Thirdly, delayed filing of Form 10B is a procedural defect and since the assessee trust had filed the same before Ld. JCIT(A) during the course of appellate proceedings, no disallowance was called for on account of late filing of said Form 10B.

10. On going through the various adjustments which have been incorporated under Section 143(1) of the Act, we are of the considered view that treatment of such corpus donation as voluntary donation falls outside the scope of adjustments contemplated under Section 143(1) of the Act, unless such incorrect claim is apparent from any information in the return of income. In the return of income filed by the assessee, such donation of Rs. 17,96,000/- was specifically treated as corpus donation and not as voluntary donation. Accordingly, in our considered view, treatment of corpus donation as voluntary donation falls outside the scope of adjustments contemplated under Section 143(1) of the Act. Secondly, we observe that in the case of Shree Swaminarayan Charitable Trust (supra), wherein the ITAT has made the following observations:

"3. The issue before me pertains to delayed submission of Form no.10B which Id.counsel for the stated to be a technical default. He further submitted that ld.Bench of the ITAT, Ahmedabad rejected similar claim in the case of Association of Indian Panelboard Manufacturer v. DCIT, ITA No. 24 of 2022. However, the said decision of the ITAT was reversed by the Hon'ble Jurisdictional High Court by judgment dated 21.3.2023 reported in [2023] 157 taxmann.com 550 (Gujarat) holding that w.e.f. Astt.Year 2016-17 filing of form though mandatory in nature but procedural in nature, owing amendment made in Finance Act, 2015. In the present case, however, the ld.counsel for the assessee submitted that the same has been filed subsequently, and therefore, the above decision of the Hon'ble Jurisdictional High Court is squarely applicable. The relevant portion of the judgment of the Hon'ble High Court at para 6.1 is held as under:

6. The moot aspect thus centres around to the requirement of the availability of the audit report when the assessment was undertaken by the Assessing Officer even though the same may not have been filed alongwith (the return of income. Filing of audit report is held to be substantive requirement but not the mode and stage of filing, which is procedural Once the audit report in Form 12B is filed to be available with the Assessing Officer, before assessment proceedings take place, the requirement of JK law is satisfied. In that view, the Income Tax Tribunal was not justified in dismissing the appeal of the assessee.

6.1 The appellant assessee has to be held to be eligible and entitled to exemptions under section 11(1) and 11 (2) of the Act and. the alleged ground of non-filing of audit report alongwith return of income which was at the best procedural omission, could never to an impediment in law in claiming the exemption.

4. On the other hand, the ld.DR relied on the order of the ld.CIT(A).

5. Heard both the parties.

s6. I have gone through the record and the orders of the Revenue authorities. Keeping in view the decision of the Hon'ble jurisdictional High Court in the case of Association ofIndian Panel Board Manufactureres (supra), and the assessee having satisfied the requirement of the law, I set aside the impugned orders of the Revenue authorities, and allow the grounds of appeal."

11. The ITAT Ahmedabad in this case has held that delay in submission of Form No. 10B is a procedural defect and once the said Form has been filed during the course of hearing, no disallowance is called for on account of late / delayed filing of Form No. 10B. In the instant case, we observe that the assessee had filed Form No. 10B before Ld. JCIT(A) before conclusion of appellate proceedings. Accordingly, in view of the aforesaid decision of Ahmedabad Tribunal, exemption under Sections 11&12 of the Act cannot be denied to the assessee only on account of late filing of Form No. 10B. Accordingly, in light of the above observations, the appeal of the assessee is allowed.

12. In the result, the appeal of the assessee is allowed".

8. In the case of Shree Bhakt Samaj Vikas Education Trust vs. Assistant Commissioner of Income-tax (Exemption) [2025] 175 taxmann.com 1076 (Ahmedabad Trib.) [2025] 213 ITD 639 (Ahmedabad-Trib.) [25.06.2025], wherein it was held at paragraph Nos.9, 11 & 12 of the order as under:- ………………………

"9. We observe that admittedly there was a delay on filing Form 10B by the assessee trust. It was on this basis that AO, CPC denied the claim of exemption under Section 11 of the Act. Ld. CIT(A) upheld the denial of exemption under Section 11 of the Act on the ground that despite issuance of multiple notices of hearing, none appeared on behalf of the assessee to present it's case during the course of appellate proceedings. However, we note that it is a well settled law that delay in filing of Form 10B is a procedural default and if other conditions have been met, then mere delay in filing of Form 10B should not disentitle the assessee from claiming exemption under Section 11 of the Act. In the case of Sarvodaya Charitable Trust v. ITO(E) [2021] 125 taxmann.com 75/278 Taxman 148 (Gujarat), the Hon'ble Gujarat High Court held that where assessee, a public charitable trust registered under Section 12A of the Act had substantially satisfied condition for availing benefit of exemption as a trust, it could not be denied exemption merely on bar of limitation in furnishing audit report in Form No. 10B. While passing the order the Hon'ble Gujarat High Court made the following observations:

"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 equitious,

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 condition 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.

33. In view of the above, this writ-application succeeds and is hereby allowed. The impugned order passed by the respondent no. 2 dated 19th August 2019 (Annexure-A to this writ-application) is hereby quashed and set aside. The impugned rectification order at page-13 of the paper-book dated 12th February 2020 is also hereby quashed and set aside. The delay condonation application filed by the writapplicant before the respondent no. 2 is hereby allowed." ………………………

. 11. Accordingly, in view of the decision of the Hon'ble Gujarat High Court in this issue, as well as various other judicial precedents which have upheld the principle that delay in filing of Form 10B being a procedural default should not disentitle the assessee / applicant trust the denial of grant of exemption under Section 11 of the Act, we are of the considered view that in the assessee's set of facts, claim of exemption under Section 11 of the Act should not be denied only on account of delay in filing Audit Report in Form 10B, within the stipulated time. However, we make it clear that we are not making any observations with regard to the merits of the claim of exemption under Section 11 of the Act, but are only allowing the appeal on the legal principle what once Form 10B has been filed by the assessee and the same is available with the Department before passing of order / intimation under Section 143(1) of the Act, then in view of the decisions of Jurisdictional High Court referred to above, the claim of exemption under Section 11 of the Act cannot be denied only on account of delay in filing of Form 10B before the due stipulated date.

12. In the result, the appeal of the assessee is allowed. "

9. Ld. DR was unable to draw our attention to any decision of the jurisdictional High Court holding to the contrary. In view of the same respectfully following the binding judicial precedents and having regard to the fact that the audit report in Form 10BB was duly filed and was available on record prior to the issuance of intimation u/s. 143(1)(a) of the Act, I hold that the denial of exemption u/s. 11 of the Act was not justified. In the result, appeal of the assessee is allowed. "

6. We considering the facts, circumstances, submissions and the ratio of the judicial decisions dealt and follow the judicial precedence as the Form.No.10BB was filed on 21.10.2024 and was made available before processing of return of income u/ sec143(1) of the Act on 23.12.2025 Accordingly, We set aside the order of the CIT(A) and direct the assessing officer to grant the benefit of exemption u/sec11 of the Act claimed by the assessee. And the grounds of appeal are allowed in favour of the assessee.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the Open Court on 20th July, 2026.

Sd/-	**Sd/-**
DIPAK P. RIPOTE	**PAVAN KUMAR GADALE**
(ACCOUNTANT MEMBER)	**(JUDICIAL MEMBER)**

Pune; दिनांक / Dated: 20th July,2026.
Abhishek
Abhishek Mohan Digitally signed by Abhishek Mohan
Date: 2026.07.21 10:33:59 +05'30'

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "**B**"बेंच, पुणे/ DR, ITAT, "**B**" Bench, Pune.
5. गार्डफ़ाइल / Guard File.

//True Copy//

आदेशानुसार / BY ORDER,

Assistant Registrar,
आयकर अपीलीय अधिकरण, / ITAT, Pune.