

**IN THE INCOME-TAX APPELLATE TRIBUNAL “E” BENCH,
MUMBAI**

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 3587/MUM/2025
(A.Y. 2022-23)**

Tata International Limited Provident Fund 24 th Floor, VIOS Tower, New Cuffe Parade, Sewri-Chembur Road, Near IMAX Dome, Wadala, Antophill, Mumbai – 400037, Maharashtra	v/s. बनाम	Income Tax Officer, Ward – 41(1)(5), Room No. 422, 4 th Floor, Kautilya Bhavan, Bandra Kurla Complex, Bandra (East), Mumbai – 400051, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AACFT2518G		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Ms. Aarti Vissanjia/w Ms. Hetal Sangani & Shri Ajit C. Shah, ARs
Respondent by :	Shri Hemanshu Joshi (Sr. DR)

Date of Hearing	04.08.2025
Date of Pronouncement	06.10.2025

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal is preferred by the assessee against the order passed by the Learned Commissioner of Income-tax, Appeal, ADDL/JCIT(A)-2, Chennai [hereinafter referred to as “CIT(A)”] pertaining to the Intimation order passed u/s. 143(1) of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 04.04.2023 for the Assessment Year [A.Y.] 2022-23.



2. The grounds of appeal are as under:

1. The Hon'ble Commissioner of Income Tax (Appeals) on facts and in law erred in:

- (a) ignoring the approval granted to the appellant by the Hon'ble Commissioner of Income Tax under order no. TII/251(7)79-80 dated 5.6.1980, whereby income earned by the appellant (being a recognized Provident Fund Trust) is entirely exempt per section 10(25)(ii) of the Act.
- (b) denying exemption to the appellant as per section 10(25)(ii) of the Act merely on the basis of filing ITR in Form 7 instead of ITR 5.
- (c) ignoring the order passed by Hon'ble CIT(A) for the AY 2017-18 and AY 2018-19, wherein similar issue was discussed and exemption as per section 10(25)(ii) of the Act was granted determining income at Rs. NIL.

3. In this case, the assessee, a recognized Provident Fund whose income is exempt u/s 10(25) (ii) of the Act wrongly filed the Return of Income in ITR-7 instead of ITR-5. Accordingly, while processing the return CPC denied the said exemption u/s 143(1) of the Act. Appeal was filed before the Id.CIT(A). Before him it was pleaded that the liability to be taxed cannot be decided on the basis of the Forms. It was stated that the filing of Return of Income in the wrong Form was a bonafide error. However, the Id.CIT(A) rejected the contentions by observing that the Income Tax Return Form is basic for the assessee in declaring their Total Income/Loss correctly for the relevant assessment year and also for the Department to assess the same as per law. He further noticed that the assessee had filed in ITR-7 not only in this AY 2022-23 but in many other preceding years also. Therefore, the



argument of bonafide error in filing the Return of Income in wrong form was not found acceptable. It is also stated that reliance on appellate order for AY 2017-wherein on similar issue it got relief, was found incorrect as the issue of filing of Return of Income in wrong form was not discussed in the said appeal order. Also, each year being different, the mere fact that the assessee was allowed the exemption u/s 10(25)(ii) of the Act in an earlier year did not come to its rescue. Accordingly, he upheld the order of CPC dismissing the appeal of the assessee.

4. Before us, the ld.DR has relied on orders of authorities below while the ld.AR has pleaded that the ld.CIT(A) has not been fair in accepting that filing of incorrect form was not fatal and was merely a procedural error which was unintentional and bonafide. The assessee Trust is registered since 1980 and has always abided by law.

5. We have carefully considered all the relevant facts. There is no denying the claim that filing of incorrect form cannot be considered intentional and mischievous considering the track record of the assessee. At the most, it could be called a procedural and inadvertent mistake. Merely for the error, the authorities are not justified in denying its bonafide claim of registration. In this regard, it may be relevant to refer to the **Hon'ble**



Supreme Court, in the case of Dilip Kumar (2018) 9 SCC , wherein

while deciding the **Doctrine of Substantial Compliance** held as under:

“33. A fiscal statute generally seeks to preserve the need to comply strictly with regulatory requirements that are important, especially when a party seeks the benefits of an exemption clause that are important. Substantial compliance with an enactment is insisted, where mandatory and directory requirements are lumped together, for in such a case, if mandatory requirements are complied with, it will be proper to say that the enactment has been substantially complied with notwithstanding the non-compliance of directory requirements. In cases where substantial compliance has been found, there has been actual compliance with the statute, albeit procedurally faulty. The doctrine of substantial compliance seeks to preserve the need to comply strictly with the conditions or requirements that are important to invoke a tax or duty exemption and to forgive non-compliance for either unimportant and tangential requirements or requirements that are so confusingly or incorrectly written that an earnest effort at compliance should be accepted.”

5.1 We are of the considered view that denying a just claim would cause genuine hardship to the assessee and this is not the intention of the legislature and it is desirable and expedient to permit the assessee to file corrected Form. Moreover, denying the benefit based solely on this lapse would be against the principles of equity and justice, especially when there is no dispute regarding the assessee's eligibility u/s 10(25)(ii) of the Act. Considering the principle of beneficial interpretation, the procedural requirements should not override substantive benefits. The Courts have taken a lenient view on procedural lapses when substantive benefits are involved.



5.2 After hearing both sides, we are of the view that if the assessee is entitled to claim exemption u/s 10(25) (ii) of the Act which cannot be denied due to some procedural lapse. Therefore, in the interest of justice we hereby remit back the matter to the file of the jurisdictional A.O with direction to re-do the assessment after obtaining the rectified return of income from the assessee by providing adequate time and thereafter pass appropriate order in accordance with law and merit giving proper opportunity to the assessee of being heard. The assessee is also hereby directed to cooperate with the proceedings promptly and diligently in order to expedite the assessment. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal is **allowed for statistical purposes.**

Order pronounced in the open court on **06/10/2025.**

Sd/-

ANIKESH BANERJEE

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य / ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 06.10.2025

Lubhna Shaikh / Steno



आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

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