

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.365 & 1307/Hyd/2025**

निर्धारण वर्ष / Assessment Year 2022-2023

SEVA BHARATHI, Hyderabad – 500 018. Telangana. PAN AAYTS5233K	vs.	The Commissioner of Income Tax (Exemptions), Ward-1(4), Hyderabad – 500 004.
(Appellant)		(Respondent)

निर्धारिती द्वारा / Assessee by:	CA Sri Harsha
राजस्व द्वारा / Revenue by::	Dr. Sachin Kumar, Sr. AR

सुनवाई की तारीख / Date of hearing:	08.10.2025
घोषणा की तारीख / Pronouncement:	15.10.2025

आदेश / ORDER

PER VIJAY PAL RAO, VICE PRESIDENT :

The appeal ITA No.365/Hyd/2025 by the Assessee is directed against the Order dated 30.12.2024 of the learned Commissioner of Income Tax (Exemptions), Hyderabad, passed u/sec.119(2)(b) of the Income Tax Act,

1961 [in short "the Act"] whereby the application for condonation of delay in filing Form-10B was rejected for the assessment year 2022-2023. The other appeal i.e., ITA.No. 1307/Hyd/2025 by the Assessee is directed against the Order dated 31.07.2025 of the Addl./JCIT(A), Faridabad arising from the Order dated 28.03.2023 of CPC, Bengaluru, passed u/sec.143(1) of the Act for the assessment year 2022-2023.

2. First, we take-up appeal filed by the assessee in ITA.No.1307/Hyd./2025 for the assessment year 2022-2023 whereby the assessee has raised the following grounds :

1. *"The order passed by the Ld. CIT(A) u/s 250 of the Act dated 08.03.2024 is erroneous both on facts and in law to the extent the order is prejudicial to the interest of the appellant.*
2. *The Ld. CIT(A) ought to have appreciated that, the delay in filing of Form 10B was due to ill medical health of the accountant. This constitutes a reasonable cause under Section 119(2)(b) of the Income Tax Act, 1961.*
3. *The Ld. CIT(A) erred in not giving a reasonable opportunity of being heard to the appellant and passing the order u/s 250 of the Act.*
4. *The Ld. CIT(A) erred in confirming the disallowance of entire expenditure claimed by the assessee amounting to Rs.8,76,751/-, which is exempt as per the provisions of Sec 11 of the IT Act, 1961.*
5. *The Ld. CIT(A) erred in not appreciating that the entire amount of Rs.8,76,751/-has been duly expended towards the objects of the*

trust on Revenue account and Capital account which is clearly evident from the Return of Income filed.

6. *The Ld. CIT(A) ought to have appreciated that the assessee has duly complied with the provisions of Sec 11 of the Act in all the previous years and not allowing the claim on the reason of delay in filing the audit report is against principles of natural justice.*
7. *The Ld. CIT(A) erred in dismissing the appeal without appreciating the fact that appellant has reasonable cause for the delay in filing the Audit Report in Form No.10BB,*
8. *The Ld. CIT(A) erred in dismissing the appeal without appreciating the fact that the genuine claim of exemption cannot be disallowed on a technical reason of delay in filing of the Audit Report in Form No. 10BB, which is due to reasonable cause and the same is beyond the control of the appellant.*
9. *The assessee may add, alter or modify or substitute any other points to the grounds of appeal at any time before or at the time of hearing the appeal."*

3. The assessee is a trust and was registered u/sec.12A of the Income Tax Act, 1961 [in short "the Act"]. The assessee filed its return of income for the year under consideration on 02.11.2022 declaring total income of Rs.25,526/- along with tax audit report in Form-10B. The return was processed by the CPC, Bengaluru u/sec.143(1) of the Act vide Order dated 28.03.2023 whereby the benefit of secs.11 and 12 of the Act was denied to the assessee on the ground of delay in filing the audit report in Form-10B. The assessee challenged the order of the CPC before the

learned CIT(A). However, the learned CIT(A) has dismissed the appeal of the assessee on the ground that application for condonation of delay in filing Form-10B before the Pr. CIT was also rejected by the concerned Pr. CIT u/sec.119(2)(b) of the Act.

4. Before the Tribunal, the learned AR of the Assessee has submitted that that the assessee filed the return of income within the due date as extended by the CBDT up-to 07.11.2022 along with audit report in Form-10B. He has thus, submitted that when the audit report in Form-10B is available with the CPC which is filed along with return of income and at the time of processing the same u/sec.143(1) of the Act, then, the delay of 25 days cannot be a ground for denying the exemption u/sec.11 of the Income Tax Act, 1961. He has further submitted that the CPC as well as the learned CIT(A) has failed to consider the substantive exemption u/sec.11(2) and cannot be denied due to minor procedural delay like delay in filing of the Form-10B which is directory in nature and, therefore, it was not justified to withdraw the substantial benefit due to delay

in filing Form-10B. In support of this contention, he has relied upon the following decisions :

1.	Order of ITAT Ahmedabad in the case of ITO (Exemptions) vs., Ramji Mandir Religious and Charitable Trust [2004] 158 taxmann.com 114
2.	Order of ITAT Hyderabad in the case of Darga Ehazrat Syedshah Khwajadas Chisti Unnayabi Perpetual Trust, Vatpalli vs., ITO (Exemptions), Ward-1(3), Hyderabad in ITA No.567/Hyd/2024, Dated 29.08.2024.
3.	Judgment of Hon'ble High Court of Bombay in the case of St. Thomas High School vs., CIT (Exemptions) [2025] 178 taxmann.com 408 (Bom.)
4.	Order of ITAT Ahmedabad in the case of ITO (Exemptions) vs., Takshshila Foundation (NGO) [2024] 165 taxman.com 735 (Ahmedabad – Trib.).
5.	Order of ITAT Hyderabad in the case of Touchlife Foundation India, Hyderabad vs., ITO (Exemptions), Ward-1(3), Hyderabad in ITA No. 617/Hyd/2024, Dated 25.07.2024.
6.	Bhagwant Kishore Memorial Education society vs., ITO (2024) 166 taxmann.com 511 (Delhi – Trib.)
7.	Judgment of Gujarat High Court in the case of Association of Indian Panelboard Manufacturer vs., DCIT [2023] 157 taxmann.com 550 (Gujarat).
8.	Order of ITAT Surat in the case of S.M.K.R Vashi High School vs., ITO-(Exemptions), [2023] 157 taxmann.com. 702 (Surat – Trib.)

4.1. Thus, the learned AR of the Assessee has submitted that delay in filing the tax audit report in Form-10B cannot be a ground for denial of exemption u/sec.11 of the Income Tax Act, 1961.

5. On the other hand, Learned DR has submitted that the CBDT vide Circular No.19/2022 dated 30.09.2022 extended the due date for filing the audit report in Form-10B for the year under consideration up-to 07.10.2022, whereas, the assessee has filed the Form-10B on 02.11.2022 which is barred by limitation as provided under the provisions of the Income Tax Act, 1961 as well as the Income Tax Rules, 1962. The Learned DR has submitted that the original due date for filing the Form-10B was 30.09.2022 which was extended by the CBDT up-to 07.10.2022 and despite the said extension of the limitation, the assessee failed to file the tax audit report in Form-10B within the extended period of limitation, which is a mandatory condition for claiming the exemption as held by the Hon'ble Supreme Court in the case of PCIT vs., Wipro Limited [2022] 140 taxmann.com 223 (SC). He has relied upon the order of the learned CIT(A).

6. We have considered the rival submissions as well as the relevant material on record. In the case in hand, the assessee filed the return of income on 02.11.2022 within

the due date as extended by the CBDT for filing the return of income u/sec.139(1) of the Income Tax Act, 1961. The assessee has filed the tax audit report in Form-10B on the same date along with the return of income. Thus, it is clear that the audit report was filed along with the return of income and was very much available with the CPC at the time of processing the return on 28.03.2023. The learned AR of the Assessee has relied upon various judicial precedents on this issue wherein it has been held that filing of the audit report in Form-10B is directory in nature if the same is filed before passing the order by the Assessing Officer, then, the delay in filing the report cannot be a ground for denial of exemption u/sec.11 of the Income Tax Act, 1961. The Hon'ble Gujarat High Court in the case of Association of Indian Panelboard Manufacturer vs., DCIT (supra), while considering an identical issue has held in paras 4.1 to 6.1 as under :

4.1. *In support of the above submissions, reliance was placed on the decisions of this court in CIT v. Mayur Foundation (2005)1274 ITR 562 (Guj.) in CIT v. Xavier Kelavani Mandal (P.) Ltd. (2014) 41. taxmann.com 1841/221 Taxman 43 (Mag). (Guj.) in CIT v. Andhra Pradesh State Road Transport Corporation*

120061.285 ITR 147(AP) and CIT v. Rai Bahadur Bissesswarlal Motilal Malwasie Trust [1992] 65 Taxman 273/ 195 ITR 825 (Cal).

5. *The decision of the Division Bench of this court in Xavier Kelavani Mandal (P.) Ltd. (supra) leaves the issue no longer res integra. In that case Form 10B was not filed by the assessee alongwith the return of income, however the appellate authority permitted the assessee to file Form 10B audit report at the appellate stage and accepted the same to allow the exemption under section 11. The department filed appeal which came to be dismissed.*

5.1. *The Division Bench of this court dismissed the appeal before it confirming the view taken observing that the provisions regarding filing of audit report was procedural in nature,*

"4. The question whether it is permissible to the assessee to produce the audit report at the appellate stage, has already been answered by this court in CIT Vs. Gujarat Oil & Allied Industries Ltd. [(1993) 201 FIR 325 (Goj.)], wherein it is held that the provision regarding furnishing of audit report along with the return has to be treated as a procedural provision. 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 before completion of the assessment. The Punjab and Haryana High Court in CIT v. Shahzadanand Charity Trust [(1997) 228 ITR 292] has reiterated the same principle holding that the benefit of exemption should not be denied merely in 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 showing a sufficient cause. This decision of Punjab & Haryana High Court has been relied on by the Tribunal."

5.2. *The decision of this court in Mayur Foundation (supra) stands to support the submission of the appellant. The decision in Rai Bahadur Bissesswarlal Motilal Malwasie Trust (supra) of Calcutta High Court takes a same view as was taken as by this court in Xaviers Kelavni Mandal (P.)Ltd. (supra). It that case the assessee-charitable trust filed the return of income but was not accompanied by audit report in Form 10B as required under section 12A. The Calcutta High Court held that the provisions of Section 12A are directory in the sense that Assessing Officer are not powerless to allow an assessee to file audit report, if not filed along with return, anytime before completion of assessment.*

5.3. *Learned advocate for the respondent was not in position to dispute the law emanating from the decision of Xavier Kelavani Mandal (P.) Ltd. (supra) and the other decisions on the issue.*

5.4. *Recollecting the relevant dates, the income was filed on 31-8-2018. On 15-3-2019 Form 108 was filed electronically. On 7-12-2019 intimation under section 143(1) of the Act was given to the appellant that the exemptions were denied, while processing the return of income on the ground that along with the return of income Form 108 was not filed.*

5.5. *It is to be observed in the present case that the Form D-the audit report, though was not filed with the return of income, the same was available with the Assessing Officer when he*

processed the return of income under section 143(1) of the Act. The conditions for claiming exemption under section 11 was satisfied. Although the requirement of furnishing report was mandatory, filing thereof is a procedural aspect. Even though the Form 10B was filed at a later stage, when it was part of the record of the Assessing Officer in course of the processing of the return of income, the Assessing Officer could not have denied the exemption claimed by the assessee under sections 11(1) and 11(2) on the ground that the audit report was not filed.

5.6. *The tribunal further committed an error in appreciating the import of section 119 2(b) of the Act inasmuch as the application contemplated thereunder is only additional remedy for the assessee which could not be said to be compulsorily resorted to by the assessee. The circular No.7/18 dated 20-12-2018 issued under section 119 of the Act could not be, therefore said to have taken away the appellate remedy.*

5.7. *The tribunal misdirected itself in yet another way when it observed that The Finance Act, 2015 with effect from 1-4-2016, that is from assessment year 2016-17 changed the legal position. There is no such change which could be said to have altered the legal position. The only change is with regard to compulsory filing of audit report in Form 10B in electronically form which is made mandatory under Rule 12 (2) of the Income-tax Rules, 1962 but there is no change with regard to the substantive law about filing of audit report as stated above.*

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 along with 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 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 along with return of income which was at the best procedural omission, could never to an impediment in law in claiming the exemption.”*

6.1. Thus, it is clear that the Hon'ble High Courts have taken a consistent view and reiterated the same in principle by holding that the benefit of exemption u/secs.11 and 12 of the Income Tax Act, 1961 should not be denied mainly on account of delay in furnishing the report in Form-10B. It was also observed that it is permissible for the assessee to produce the audit report at a later stage either before the ITO or before the Appellate Authority by showing a 'sufficient cause'. Though, 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 is filed and available with the Assessing Officer at the time of

assessment proceedings undertaken, then, the requirement of law is satisfied. Similar view has been taken by this Tribunal in the cases relied upon by the learned Authorised Representative of the Assessee. The ITAT, Ahmedabad Bench of the Tribunal in the case of ITO (Exemptions) vs., Ramji Mandir Religious and Charitable Trust (supra), has held in Paras-8 to 10 as under :

“8. We have heard the rival contentions and perused the material on record. We observe that in the instant facts, it is not a case where the assessee had not filed Form 10 in the original return of income, before the due date prescribed of filing return of income. It is only a case where the assessee observed that a certain error had crept in the original return of income, wherein the quantum of deduction claimed under section 11(2) of the Act required correction and accordingly, the assessee filed revised return of income with the higher claim of deduction under section 11(2) of the Act. It has been held by various Courts that the requirement of filing Form 10/10B is merely directory in nature and failure to furnish Form 10/10B before due-date prescribed u/s 139(1) of the Act cannot be so fatal so as to deny they very claim of exemption u/s 11(2) of the Act especially when Form 10/10B was available on record when the intimation was passed by CPC u/s 143(1) of the Act. The following judicial precedents have reiterated the aforesaid principal:

I. Association of Indian Panelboard Manufacturer v. Dy. CIT [20231 157 taxmann.com 550-TA 655 of 2022 (Guj.);

- II. *Dy. CIT v. Croygas Equipments (P.) Ltd. [IT Appeal No. 415 (Ahd.) of 2020, dated 16-6-2023]*
- III. *True Sparrow Systems (P.) Ltd. v. Pr. CIT [IT Appeal No. 765 (Ahd.) of 2019, dated 22-4-2022];*
- IV. *Shardaben Education Trust v. ITO [IT Appeal No. 2312 (Ahd.) of 2018, dated 16-11-2022];*
- V. *CIT v. Xavier Kelavani Mandal (P.) Ltd. [2014] 41 taxmann.com 184/221 Taxman 43 (Mag.) (Guj)*
- VI. *Zenith Processing Mills v. CIT [1996] 219 ITR 721 (Gul):*
- VII. *CIT v. Mayur Foundation [2005] 274 TTR 562 (Guj):*
- VIII. *CIT v. Gujarat Oil & Allied Industries [1993] 201 ITR 325 (G.):*
- IX. *CII v. G. M. Knitting Industries (P.) Ltd. [2016] 171 taxmann.com 35/120151376 ITR 456 (SC):*
- X. *CIT v. Web Commerce (India) (P) Ltd. [2009] 178 Taxman 310/318 ITR 135 (Delhi):*
- XI. *CIT v. Contimeters Electricals (P) Ltd. [2009] 178 Taxman 422/317 ITR 249 (Delhi):*
- XII. *Pr. CIT v. Surya Merchants Ltd. 120151 72 taxmann.com 16/387 ITR 105 (AIL);*
- XIII. *DIC Fine Chemicals (P.) Ltd. v. Dy. CIT 120191 107 taxmann.com 213/177 ITD 672 (Kol.):*

9. Further, we are also in agreement for the Counsel for the assessee that the case of Wipro Ltd. (*supra*) was rendered on a different set of facts, wherein in the original return of income the assessee had claimed benefit under section 108 of the Act and thereafter, a revised return of income was filed by the assessee foregoing the claim of benefit of Section 10B of the Act. However, the facts of the instant case are clearly distinguishable

for the reason that in both the original return of income as well as the revised return of income, the assessee has taken a consistent stand and has claimed deduction under section 11(2) of the Act, and further in the original return of income (which was filed within the due prescribed date), Form 10 was duly furnished by the assessee. It was only later when the assessee noticed that the claim of deduction under section 11(2) of the Act required correction that the assessee filed revised return of income along with Form 10. Therefore, there is a marked distinction between the facts of the Wipro Ltd case supra and the instant facts. Further, observe that Ahmedabad ITAT in the case of Croygos Equipments (P) Ltd. (supra) had also held that the principle of Wipro Limited supra cannot be uniformly applied to all cases and the aforesaid decision was distinguished by the Ahmedabad Tribunal, with the following observations:

6.3. *Another notable issue for consideration is that recently the Hon'ble Supreme Court was confronted with the claim of benefit u/s 108 in Pr. CIT v. Wipro Ltd. [2022] 140 taxmann.com 223/288 Tasman 491/446 ITR 1. The assessee furnished original return taking the benefit of section 108 and did not carry forward the loss. Thereafter, a revised return was filed foregoing the claim of deduction u/s 10B. The AO rejected the withdrawal of exemption under section 10B by holding that assessee did not furnish the necessary declaration in writing before due date of filing return of income, which was an essential requirement for not claiming the benefit of section 10B. The Hon'ble High Court decided the issue in favour of the assessee by holding that the requirement of filing the declaration was mandatory but filing it along with the return of income u/s 139(1) was a directory requirement. The matter was brought by the Revenue before the Hon'ble Supreme Court. The assessee, inter alia, relied on the judgment of the Apex Court in G.M.*

Knitting Industries (P.) Ltd. (supra). Their Lordships held that the requirement of filing the report in support of deduction u/s 100 was not a directory but a mandatory requirement. It further held that both the conditions of filing the declaration and filing it before the time limit u/s 139(1) were mandatory and had to be cumulatively satisfied. Rejecting the reliance on G.M. Knitting Industries (P) Ltd. (supra), the Hon'ble Supreme Court held that that decision was relevant in the context of deduction provisions and not the exemption provisions as given under Chapter III of the Act.

6.3.1. *In our view, the aforesaid decision would not apply to assessee's set of facts and would not preclude/prohibit the assessee from claiming deduction u/s 10AA of the Act, for the following reasons:*

- (i) *Firstly, in the case of Wipro Limited supra, the issue for consideration before the Hon'ble Supreme Court was that in the original return of income, the assessee had claimed deduction under section 10B of the Act, whereas in the revised return filed under section 139(5) of the Act, assessee did not claim deduction under section 10B of the Act, and instead claimed benefit of carry forward of losses. It was in light of these facts that the Hon'ble Supreme Court held that on a plain reading of section 10B(8) of the Act, it is clear that where assessee claimed benefit under section 10B(8) by furnishing declaration in revised return much after due date prescribed under section 139(1), same was to be denied as requirement of furnishing declaration before AD before due date of filing original return under section 139(1) was a mandatory condition not directory. However, notably, there is no such equivalent/similar provision in section 10AA of the Act, which gives an option to the assessee to file a declaration before the due date of return of income under section*

139(1) of the Act, to the effect that the provisions of this section may not be made applicable to him, for the Impugned assessment year. Therefore, going by the strict language of section, the relevant statutory provisions on which the decision of Wipro was based, were on a different footing. Further, the issue for consideration in the Wipro case is also distinguishable, since in the assessee's case, it had claimed benefit of deduction u/s 10AA in the original return of income (and only Form 56F was omitted to be e-filed along with return of income), whereas the issue for consideration in Wipro case supra was that once the assessee had claimed benefit of section 10B in the original return of income, whether such benefit could be foregone/withdrawn by filing declaration a/s. 10B(8) of the Act in the revised return of income filed u/s 139(5) of the Act (and the assessee could, in turn, avail the benefit of carry forward losses in the revised return of income).

- (ii) *Secondly, the Hon'ble Supreme Court in the case of Wipro Limited held that section 10B of the Act is an "exemption provision" and hence, assessee claiming such exemption has to be "strictly" comply with the exemption provisions. However, notably, the Hon'ble Supreme Court in the case of CIT v. Yokogawa India Ltd 391 ITR 274 (Supreme Court), held that section 10A of the Act is a "deduction provision" and not an "exemption provision". Therefore, apparently there seems to be a difference of opinion to whether section 10A/B provisions qualify as "Exemption" or Deduction" provisions. Therefore, since it is well-settled principle of law that deduction provisions, which have been introduced in the Statute to provide incentive to the assessee, should be construed "liberally", in our considered view, once it is not disputed that the instant*

set of facts, the assessee claimed the benefit of provisions under section 10AA in the return of income (which in our view is a mandatory/ directory requirement), the benefit of section 10AA cannot be denied only on the ground that the assessee could not file Form 56F along with the return of income (being a procedural requirement), especially when Form 56F has been filed by the assessee at the assessment stage when such claim was being considered by the Assessing Officer.

- (iii) *Besides the above, in the case of G. M. Knitting Industries (P.) Ltd. case supra, the Hon'ble Supreme Court further held that even though necessary certificate in Form 10CCB along with return of income had not been filed but same was filed before final order of assessment was made, assessee was entitled to claim deduction under section 80-18 of the Act as well. Therefore, in light of the decision of Yokogawa supra (which is held that section 10A of the Act is a "deduction provision not an "exemption provision") and the decision of G. M. Knitting Industries case supra, which have been rendered on a similar facts as that of the assessee Le. claim of deduction was made in the original return of income itself, in our view, the ratio laid down in the Wipro Ltd case would not disentitle assessee to claim benefit of section 10AA of the Act, since it has been rendered on a different set of facts. Therefore in our considered view, once such claim has been made in the original return of income and assessee has also furnished Form 56F during the course of assessment proceedings itself, before the assessment was finalized. The assessee should not be denied the benefit of s. 10AA of the Act. It is a well settled principle of law that if there is any ambiguity regarding interpretation of a Statutory provision, an interpretation favourable to the assessee*

may be taken, especially when we are dealing with Statutory provisions aimed at giving some incentive to the assessee.

6.4. *Another aspect for consideration is that whether there is sufficient compliance once assessee has filed the revised Form 56F during the course of assessment proceedings. In the case of Mis. ACN Info-Tech v. ACIT ITA No. 79/Viz/2017, instead of claiming deduction u/s. 10AA of the Act, the assessee claimed deduction u/s. 10B of the Act in the income tax return. The A.O. rejected the claim on the ground that assessee did not file form 56F along with return of income and had filed form 56G instead. The Id. A.R argued that the AO ought to have allowed the deduction u/s. 10AA since the assessee had filed form 56F during assessment proceeding which was a pure technical mistake. The Tribunal held that benefit of deduction should not be disallowed as the assessee had duly fulfilled the conditions for claiming exemption u/s. 10AA of the Act. In the case of ITO v. Accentia Technologies 52 taxmann.com 89 (Mom). the Mumbai Tribunal held that deduction under section 10A cannot be denied merely because at time of filing of return, claim had mistakenly been made under section 10B of the Act. The Gujarat High Court in the case of Zenith Processing Mills CIT 219 ITR 721(Guj) held that provision of section BOJ(6A) to extent it requires furnishing of auditor's report in prescribed form along with return, is directory in nature and not mandatory. Further, assessee can be permitted to produce such report at later stage when question of disallowance arises during course of assessment proceedings. In the instant case, the A.O. has denied s.10AA benefit on account of an inadvertent error on*

the part of the assessee in not e-filing Form 56F along-with return of income. We are therefore of the view that there is sufficient compliance if the Form 56F has been filed during the course of assessment proceeding, since there is no material objective to be achieved by the assessee in not e-filing the same, once the same was already available with the assessee.

6.5. *In view of the above, we are of the considered view that CIT(A) has not erred in facts and in law in allowing the claim of the assessee that deduction u/s. 10AA of the Act cannot be denied simply on t ground that the assessee did not e-file form 56F along with the return of income, when the assessee furnished form 56F to the Id. Assessing Officer during the assessment proceedings when the claim of deduction u/s. 10AA of the Act was being examined by the Id. Assessing Officer."*

10. *Accordingly, in the light of the above facts, the judicial precedents on the subject and the foregoing discussion, we find no infirmity in order of Ld. CIT(Appeals) so as to call for any interference."*

7. Similarly, the Coordinate Bench of this Tribunal in the case of Darga Ehazrat Syedshah Khwajadas Chisti Unnayabi Perpetual Trust, Vatpalli vs., ITO (Exemptions), Ward-1(3), Hyderabad (supra), has considered this issue in Paras-6 and 7 as under :

6. We have gone through the record in the light of the submissions made on either side. As a matter of fact, this issue is no longer *res integra* and decided by the coordinate Bench of the Ahmadabad Tribunal in the case of *Ramji Mandir Religious and Charitable Trust (supra)*, wherein, after reviewing the entire case law on this aspect, in unequivocal terms, it was held that the requirement of filing Form 10/10B is merely directory in nature and failure to furnish Form 10/108 before the due date prescribed under section 139(1) of the Act cannot be so fatal as to deny the claim of exemption under section 11(2) of the Act, especially when Form 10/108 was available on record when the intimation was passed by CPC under section 143(1) of the Act. In reaching such a conclusion the Bench considered the binding precedents rendered by the Hon'ble Gujarat High Court and other high courts and the Hon'ble Supreme Court. Respectfully following the same we hold that since the Form 10 was available when the CPC passed the intimation in this case, disallowance of the claim of the assessee under section 11(2) of the Act is not proper.

7. Admittedly in this matter, the return of income was filed on 22/3/2021, Form 108 was filed on 20/3/2021 and the intimation under section 143(1) of the Act was passed on 30/11/2021, indicating that as on the date of passing of the 143(1) of the Act intimation Form 108 was very much available on record. We, therefore, respectfully following the view taken by the coordinate Bench in the case of *Ramji mandir Religious and Charitable Trust (supra)*, we deem it just and proper to direct the learned Assessing Officer to consider Form 108 available on record at the time of processing the return of income. Learned Assessing Officer is, therefore, is directed to consider Form 10B available on record and to pass appropriate orders.”

8. Accordingly, in view of the facts and circumstances of the case when the Form-10B was filed along with the return of income and within the due date of filing the return of income u/sec.139(1) of the Income Tax Act, 1961, then, the delay in filing the Form-10B cannot be a ground for denial of the exemptions u/secs.11 and 12 of the Income Tax Act, 1961.

9. In the result, ITA.No.1307/Hyd./2025 of the Assessee is allowed.

ITA.No.365/Hyd./2025 – A.Y. 2022-2023 [Assessee's Appeal]

10. This appeal ITA.No.365/Hyd./2025 of the Assessee is directed against the Order of the learned Commissioner of Income Tax-(Exemptions) passed u/sec.119(2)(b) of the Income Tax Act, 1961, is not maintainable as the said Order is not an appealable order. The learned AR of the Assessee as well as learned DR for the Revenue has fairly admitted this proposition that the order passed u/sec.119(2)(b) of the Act is not an appealable order and, therefore, the efficacious remedy for the assessee

against the said order is not an appeal before the Tribunal, but, may be a Writ Petition before the Hon'ble High Court. Accordingly, the appeal ITA.No.365/Hyd./2025 of the Assessee is liable to be dismissed as not maintainable.

11. In the result, ITA.No.365/Hyd./2025 of the Assessee is dismissed as not maintainable.

12. To sum-up, the appeals ITA.No.1307/Hyd./2025 of the Assessee is allowed and ITA.No.365/Hyd./2025 of the Assessee is dismissed as not maintainable. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 15th October, 2025.

Sd/-
[MADHUSUDAN SAWDIA]
ACCOUNTANT MEMBER
Hyderabad, Dated 15th October, 2025
VBP

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Copy to :

1.	SEVA BHARATHI, 96, Mothi Nagar, Sanathnagar IESO, Balanagar, Hyderabad – 500 018. Telangana.
2.	The Commissioner of Income Tax (Exemptions), Ward-1(4), Aaykar Bhavan, Hyderabad – 500 004.
3.	The Addl. CIT-(Exemptions), Hyderabad.
4.	DR, ITAT “B” Bench, Hyderabad.
5.	Guard file.

BY ORDER,

//True copy//