

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ DB-A ‘ Bench, Hyderabad

Before Shri Manjunatha, G. Accountant Member
A N D
Shri Ravish Sood, Judicial Member

आ.अपी.सं / **ITA No.579/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2023-24)

Sri Ramalingeswara Swamy Temple, HYDERABAD PAN:AAEAS2164C (Appellant)	Vs.	Income Tax Officer (Exemptions) Ward-1(4) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by: Shri Srikanth Sirigadi, CA		
राजस्व द्वारा / Revenue by: Shri Gurpreet Singh, Sr. AR		
सुनवाई की तारीख / Date of hearing: 24/06/2025		
घोषणा की तारीख / Pronouncement: 25/06/2025		

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated, 31/01/2025 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2023-24.

2. Brief facts of the case are that the appellant Sri Ramalingeswara Swamy Temple is a Deity registered u/s 12A and 12AA of the I.T. Act, 1961. The Temple is under the management and the administrative control of the Endowment

Department of Govt. of Telangana. The appellant had filed its return of income for the A.Y 2023-24 as an Artificial Juridical Person declaring total income at Rs. “Nil” after claiming exemption u/s 11 of the I.T. Act, 1961. The appellant had filed audit report in Form No.10BB on 28/11/2023, but due date of filing the audit report was 31/10/2023. The return of income filed by the assessee has been processed and intimation u/s 143(1) of the Act was issued determining the total income at Rs.1,13,40,607/- by denying the exemption u/s 11 of the Act, for not filing the audit report in Form No.10BB on or before the due date i.e. on 31/10/2023.

3. Aggrieved by the order of the Assessing Officer passed u/s 143(1) of the Act, the assessee filed appeal before the learned CIT (A) and challenged the denial of exemption u/s 11 of the Act, for not filing the audit report, on or before the due date and submitted that, if the relevant audit report in Form No.10BB is filed and made available to the Assessing Officer before the Assessing Officer, when he passed the order merely, because of delay in filing the relevant Form 10BB, exemption cannot be denied for the assessee, otherwise the assessee is eligible on such exemption. The learned CIT (A) after considering the relevant submissions of the assessee and also by following the decision of the ITAT, Ahmedabad Bench. in the case of Association of Indian Panelboard Manufacturer vs. Dy. CIT reported in (2022) 143 Taxmann.com 418 (Ahd.) rejected the explanation of the assessee

and upheld the denial of exemption by the Assessing Officer for non-filing of Form No.10BB on or before the due date. The learned CIT (A) also took support from the decision of the Hon'ble Supreme Court in the case of Pr. CIT vs., Wipro Ltd in Civil Appeal No.1449 of 2022, dated 11/07/2022 and held that the requirement of filing declaration within a time line is mandatory in nature, as per the language of the provision. Since the assessee has not filed the relevant audit report on or before the due date, the Assessing Officer has rightly denied exemption u/s 11 of the I.T. Act, 1961. Thus, rejected the explanation of the assessee and upheld the additions made by the Assessing Officer.

4. Aggrieved by the order of the learned CIT (A), the assessee is in appeal before the Tribunal.

5. The learned Counsel for the assessee submitted that, the learned CIT (A) erred in sustaining the addition made by the Assessing Officer by rejecting the exemption u/s 11 of the Act, for not filing Form 10BB on or before the due date, even though the said audit report was made available to the Assessing Officer before he passed order u/s 143(1) of the Act on 19/11/2024. The learned Counsel for the assessee further referring to the various facts submitted that the assessee is registered u/s 12AA of the Act and this fact has not been disputed by the Assessing Officer. Further, the audit report was also filed on 28/11/2023 along with the return of income and also explained the reasons for not filing

the audit report on or before the due date of 31/10/2023. Further, the appellant had also filed a petition for condonation of delay in filing Form 10BB before the appropriate authority and the same is pending for adjudication. Although, these facts were brought to the notice of the learned CIT (A) but, the learned CIT (A) rejected the explanation of the assessee and upheld the addition made by the Assessing Officer. Therefore, he submitted that, the addition made by the Assessing Officer should be deleted. In this regard, he relied upon the decision of the ITAT Bangalore Benches in the case of Sardeivatha Education Trust vs Income Tax Officer (Exemptions) reported in (2024) 166 Taxmann.com 524 (Bang.Trib). The assessee had also relied upon the decision of the Hon'ble High Court of Telangana in the case of Shilparamam Arts, Crafts and Cultural Society vs, Addl./Jt/ACIT reported in (2024) 468 ITR 350.

6. The learned Sr. AR, on the other hand, supporting the order of the learned CIT (A) submitted that, filing an audit report in Form 10BB on or before the due date is mandatory in nature. Further, this legal position has been approved by the Hon'ble Supreme Court in the case of Pr.CIT vs. Wipro Ltd (Supra). The assessee never disputed the fact that, the audit report in Form 10BB has been filed after the due date. Therefore, the Assessing Officer and the learned CIT (A) after considering the relevant facts has rightly denied the exemption u/s 11 of the Act and thus, the order of the learned CIT (A) should be upheld.

7. We have heard the rival contentions, perused the relevant material available on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that, the appellant is a religious institution under the management and administrative control of Endowment Department of the Govt. of Telangana. It is also not in dispute that, the appellant is registered u/s 12A and 12AA of the I.T. Act, 1961. The appellant has claimed exemption u/s 11 of the Act and filed relevant audit report in Form 10BB on 28/11/2023 along with the return of income filed for the impugned A.Y. There is no dispute that, the audit report in Form 10BB is filed beyond the due date provided under the Act. The due date for filing the audit report for the year under consideration was 31/10/2023. whereas the appellant has filed the audit report on 28/11/2023. Admittedly, there is a delay of 28 days in filing Form 10BB. But, the said audit report was filed before the Assessing Officer passed the assessment order u/s 143(1) of the Act on 19/11/2024. No doubt, the assessee needs to file audit report on or before the due date in order to get the benefit of exemption u/s 11 of the Act. However, in a case where the assessee has filed the audit report with a small delay of 28 days and further when such audit report was filed before the Assessing Officer who passed the assessment order, in our considered view, the Assessing Officer ought to have taken a lenient view going by the facts of the case to consider the claim of the assessee for exemption u/s 11 of the I.T. Act, 1961. This legal position is supported by the decision of the ITAT

Bangalore Bench in the case of Sardeivatha Education Trust vs Income Tax Officer (Exemptions) (Supra), wherein it was held that filing of Form 10BB was not mandatory but directory and that when audit report was available while passing intimation u/s 143(1) of the Act and requirement of law were complied with, exemption u/s 11 should not be denied to the assessee. The Hon'ble High Court of Telangana in the case of Shilparamam Arts, Crafts and Cultural Society vs, Addl./Jt./ACIT (Supra) had considered an identical issue and held that, where the assessee trust filed its return of income for the relevant A.Y on due date but, uploaded Form 10BB belatedly i.e. 2 ½ years before the assessment order was passed, application for condonation of delay in filing Form 10BB ought to have been decided by the Commissioner by taking a liberal approach. The sum and substance of ratio laid down by the Hon'ble High Court of Telangana and the ITAT Bangalore Bench of the Tribunal that, if audit report in Form 10BB was made available to the Assessing Officer before he passes his assessment order, then merely for the reason of delay in filing the relevant report, exemption claimed u/s 11 of the Act cannot be denied. In the present case, admittedly. the assessee has filed return of income on or before the due date on 28/11/2023 and also filed audit report in Form 10BB on the very same day i.e. on 28/11/2023. Although, there is a small delay of 28 days in filing the audit report but, such audit report was made available to the Assessing Officer when he passed order u/s 143(1) on 19/11/2024. Therefore, in our

considered view, the Assessing Officer ought not to have denied exemption u/s 11 of the Act. The learned CIT (A) without considering the relevant facts has simply upheld the additions made by the Assessing Officer by rejecting exemption u/s 11 of the Act. Thus, we set aside the order passed by the learned CIT (A) and direct the Assessing Officer to allow exemption claimed u/s 11 of the I.T. Act, 1961 and delete the additions.

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

Order pronounced in the Open Court on 25th June, 2025.

Sd/-

Sd/-

(RAVISH SOOD) JUDICIAL MEMBER	(MANJUNATHA, G) ACCOUNTANT MEMBER
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Hyderabad, dated 25th June, 2025

Vinodan/sps

Copy to:

S.No	Addresses
1	Sri Ramalingeswara Swamy Temple, 01 Keesra, Hyderabad 501301, Telangana
2	Income Tax Officer (Exemptions) Ward 1(4) Hyderabad
3	Pr. CIT – Exemptions, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order