

Income Tax Exemption to Trust u/s 11 cannot be Denied Merely due to Delay in furnishing of Audit Report in Form 10B: ITAT Mumbai

M/s. Gangji Shamji Chedda Charitable Trust (ITA No.1528/M/2022)

Facts:

1. Assessee trust is a charitable trust registered under section 12A of the Income Tax Act, 1961.
2. The assessee trust has filed return of income for the year under consideration on 07.11.2017 well within time, which was processed under section 143(1) of the Act dated 26.03.2019 by Dy. Commissioner of Income Tax (DCIT), Central Processing Centre (CPC), Bengaluru.
3. The assessee had failed to file form 10B along with return of income. So the AO/CPC has disallowed the total deduction claimed by the assessee and thereby raised the demand by disallowing the deductions/ exemptions claimed by the assessee.

ITAT Mumbai held as below:

1. No doubt in order to claim the deduction under section 11 & 12 of the Act conditions laid down in the provisions contained under section 12A(B) of the Act need to be complied with by the assessee trust but at the same time when audit report in form 10B has not been filed along with return of income due to some technical reasons DCIT, CPC was not empowered to make any adjustment/raise a demand without issuing a notice to the assessee.
2. This issue has already been decided by the Hon'ble High Court of Madhya Pradesh, Hon'ble High Court Calcutta & Hon'ble Gujarat High Court in case of CIT vs. Devradhan Madhavlal Genda Trust (1998) 230 ITR 714 (MP), CIT vs. Rai Bahadur Bissesswarlal Motilal Malwasie Trust (1992) 65 Taxman 273 (Cal) &

CIT vs. Gujarat Oil & Allied Industries (1993) 201 ITR 325 respectively wherein it is held that filing of audit report in form 10B during the course of assessment proceedings is sufficient compliance of section 12A(b) which has to be considered. So the exemption otherwise available to the assessee trust under section 11 cannot be denied merely on account of delay in furnishing of audit report in form 10B as required under section 12A(b) of the Act.

3. So in the present case audit report having been filed by the assessee trust well prior to the last date of filing of return is a sufficient compliance of section 12A(b) of the Act.