आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं सुश्री पद्मावती एस, लेखा सदस्य के समक्ष

BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND MS PADMAVATHY S, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No.: 4065/CHNY/2025**

निर्धारण वर्ष/Assessment Year: 2021-22

M/s. M.N. Chickkanna Chettiar Trust, 251, B.S. Sundaram Road, Palayakkadu, Tiruppur – 641 601.	Vs.	**The Assistant Commissioner of Income Tax (Exemptions),** Coimbatore
PAN: AAATM 4901C		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by	:	Shri T. Banusekar & Shri H. Yeshwanthkumar, Advocates
प्रत्यर्थी की ओर से/Respondent by	:	Ms. D. Nithya, Addl. CIT

सुनवाई की तारीख/Date of Hearing	:	31.07.2026
घोषणा की तारीख/Date of Pronouncement	:	03.08.2026

आदेश/ O R D E R

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed by the assessee is directed against the order of Addl./JCIT(A)-9, Mumbai dated 17.10.2025 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2021-22.

2. The solitary issue that is argued by the Ld.AR is that the FAA has erred in confirming the intimation issued u/s.143(1) of the Act, wherein the claim of exemption u/s.11 of the Act was denied solely for the reason that Form 10B was filed belatedly by one day.

3. Brief facts of the case are as follows: The assessee is a trust. It is stated that assessee has got registration u/s.12AA of the Act. For the assessment year 2021-22, the return of income was filed by the assessee trust on 16.02.2022 declaring the nil income after claiming exemption u/s.11 of the Act. The due date for filing the audit report in Form No.10B was 15.02.2022. The assessee trust had filed Form 10B only on 16.02.2022 (delay of one day). The return was processed u/s.143(1) of the Act by the CPC vide its order dated 23.08.2022. In the intimation issued u/s.143(1) of the Act, exemption u/s.11 of the Act was denied because Form 10B was not filed within the prescribed due date. Accordingly, the entire gross receipt of Rs.1,19,11,595/- was brought to tax at maximum marginal rate resulting in demand of Rs.49,40,230/-. The assessee filed a petition u/s.119(2)(b) of the Act before the CIT(E) for condonation of delay in filing Form 10B. The CIT(E) rejected the said petition vide his order dated 11.01.2025, which has been extracted at para 6.1.2 of the impugned order of the FAA.

4. Aggrieved by the intimation issued, the assessee filed appeal before the FAA with a delay of 895 days. The FAA condoned the delay of 895 days. The FAA after considering the submissions and taking note of the fact that CIT(E) had rejected the assessee's petition for condonation of delay upheld the denial of exemption u/s.11 of the Act. However, on the alternate plea, the FAA directed the AO to compute the tax on the net income. Accordingly, the appeal filed by the assessee was partly-allowed.

5. Aggrieved, the assessee has filed the present appeal before the Tribunal. The Ld.AR submitted that the issue involved in the present appeal is squarely covered by the order of the Chennai Bench of the Tribunal in the assessee's own case for the assessment year 2020-21, wherein, on identical facts, the Tribunal directed the Assessing Officer to grant exemption u/s.11 of the Act.

6. The Ld.DR supported the findings of the FAA.

7. We have heard the rival submissions and perused the material available on record. We find that the issue arising in the present appeal is squarely covered by the order of the Chennai Bench of the Tribunal in the assessee's own case for the assessment year 2020-

21 in ITA No.1568/CHNY/2025, dated 15.10.2025. On identical facts, the Tribunal held that the delay of 19 days in filing the audit report in Form No.10B is merely a procedural and directory requirement and cannot be a ground to deny exemption under section 11 of the Act. After considering the rival submissions and various judicial precedents, the Tribunal categorically held that belated filing of Form No.10B does not disentitle the assessee from claiming exemption under section 11 of the Act, provided the substantive conditions prescribed under the Act are duly satisfied. The relevant submissions of the parties and the findings of the Tribunal in the said order are as follows:-

> *6. At the outset, it was the vehemently contended by the Ld.AR that the assessee is rightly eligible to claim exemption u/s.11 for the following reasons:*
>
> *a) Provision regarding furnishing of audit report along with the return of*
> *income has been held in plethora of cases to be a procedural provision. It has been held that furnishing of audit report is directory and not mandatory in nature and its substantial compliance would suffice.*
>
> *b) In the instant case, the due date for filing the audit report was 15.01.2021 and the same has been filed on 03.02.2021 with a delay of 19 days. However, the exemption u/s.11 of the Act has been denied by processing the return of income by the CPC, Bengaluru on 30.11.2021. Therefore it is evident that the audit report was actually filed well before processing the return of income by the CPC, Bengaluru.*
>
> *7. As regards the contention raised by the Ld.AR in respect of filing of audit report being directory and not mandatory in nature, our attention was drawn to the decision of the Hon'ble Gujarat High Court in the case of CIT(E) v Shri Laxmanarayan Dev Shrishan Seva Khendra 2024 (10)*

TMI 99 wherein the Hon'ble High Court after considering the decision of the Apex Court in WiproLimited (supra) held as follows:

> "5. Reliance placed by the learned Senior Standing Counsel Ms.Maithili Mehta for the assessee on the decision of the Hon'ble Supreme Court in case of The Principal Commissioner of Income Tax-III and Others versus M/s. Wipro Limited in Civil Appeal No.1499 of 2022 would not be applicable in the facts of the case, as in the facts of the present case, the assessee has claimed the exemption under Section 11 read with Section 12A (1) (b) of the Act which required the assessee to file Audit Report in Form of 10B of the Act which has nothing to do with claiming 100% exemption of total income in respect of newly established 100% Export Oriented Undertakings under Section 10B of the Act. Section 10B (8) of the Act requires the assessee to file an undertaking before the due date of furnishing of return of income under sub-section (1) of Section 139 of the Act before the Assessing Officer in writing that the provision of Section 10B of the Act may not be made applicable to him, otherwise the provision of this Section shall not apply to him for any of the relevant assessment year.
>
> 6. Considering the language of the provision of Section 10B (8) of the Act, the Hon'ble Supreme Court held that it was mandatory on part of the assessee to file declaration before the due date of filing of return under Sub-section (1) of Section 139 of the Act, whereas, in the facts of the said case the assessee filed such undertaking along with the revised return under Sub-section (5) of Section 139 of the Act and in such facts, the Hon'ble Supreme Court held that the twin conditions prescribed under Section 10B (8) of the Act was mandatory to be fulfilled and it cannot be said that though the declaration is mandatory, the filing of such declaration within the due date of filing of return under Sub-section (1) of Section 139 of the Act would be directory.
>
> 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. Income Tax Officer (Exemption) in Special Civil Application No. 6097 of 2020 decided on 09th December, 2020 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.

> 8. In such circumstances, we are of the opinion that the Tribunal has not committed any error by not following the decision in case of M/s.Wipro Limited (supra) as referred to and relied upon by learned advocate for the assessee-Revenue, and has rightly followed the decision of this Court in case of Social Security Scheme of GICEA (supra).
> 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."

8. The Ld. AR further drew our attention to the decision rendered by the Hon'ble Gujarat High Court in Sarvodaya Charitable Trust v ITO [2021] 125 taxmann.com 75 (Guj) where it was held that benefit of exemption could not be denied merely on bar of limitation in furnishing audit report in Form No.10B. Further, the Ld. AR had also relied upon the decision of the Jurisdictional High Court in the case of Chandraprabhuji Maharaj Jain v DCIT [2019] 110 taxmann.com 11 (Mad) wherein it was held that when the assessee was entitled to a statutory benefit, it would be incumbent upon the concerned authority to examine the admissibility of the benefit than to foreclose the assessee on technicalities.

9. The Ld. AR also drew our attention to the decisions of the coordinate bench of this Tribunal in the case of The Shakti Foundation v ITO in ITA No.226/Chny/2025 and Kaakkum Karangal v ITO in ITA No.1166/Chny/2024 wherein similar issues regarding delay in filing Form 10B were subject matter of consideration and the coordinate bench was of the view that the filing of Form 10B was only directory in nature and not mandatory.

10. In view of the above, the Ld.AR prayed that the assessee be granted exemption u/s.11 since the filing of Form 10B is only directory and not mandatory in nature and that the substantive conditions for claiming exemption were fulfilled in the instant case.

11. On the other hand, the Ld.DR of the Revenue objected to the submissions of the Ld.AR and relied on the findings of the Ld. CIT(A).

12. We have heard the rival contentions and perused all the material available on record before us and the judicial precedents relied on. We observe that the assessee has to comply with certain conditions failing which the assessee will lose the benefit of claiming exemption u/s.11, one of them being filing of Form 10B one month prior to the due date of filing *the return of income u/s.139(1). On consideration of the plethora of cases cited before us, the moot principle coming out of all the said decisions is that the filing of audit report in Form 10B is only directory and not mandatory in nature and thus we are of the considered view that denial of exemption u/s.11 merely on pretext of a delay that has occurred in filing of audit report in Form 10B which is only a procedural irregularity cannot become an impediment in law in claiming the exemption.*

13. In addition to the cases cited by the Ld.AR, we note that there are other decisions in which it has been clearly held that filing of Form 10B is only directory and not mandatory in nature, few of which have been stated as under:

- *Association of Indian Panelboard Manufacturer v DCIT [2023] 157 taxmann.com 550 (Guj)*
- *CIT v Xavier Kelavani Mandal (P.) Ltd. [2014] 41 taxmann.com 184 (Guj)*
- *M/s. Alternative India for Development v ITO in ITA No.2114 / Chny / 2024 – Chennai ITAT*
- *Puran Chand Arora Charitable Trust v ITO [2025] 172 taxmann.com 161 (Del. Trib)*

14. We also note that the Delhi Bench of the Hon'ble Income Tax Appellate Tribunal in the case of Trilok Singh Bhandari Charitable Trust v ITO [2025] 174 taxmann.com 737 (Del. Trib) relying on the decision of the Hon'ble Madras High Court in the case of Chandraprabhuji Maharaj Jain (supra) held that the requirement of filing audit report in Form 10B before the due date as per Rule 12A(1)(b) is directory in nature and not mandatory.

15. We further note that the decision of the Ahmedabad Bench of the Hon'ble Income Tax Appellate Tribunal in Association of Indian Panelboard Manufacturer v DCIT [2022] 143 taxmann.com 418 (Ahmedabad Trib.) referred to by the Ld. CIT(A) stands reversed by the decision of the Hon'ble Gujarat High Court in the case of Association of Indian Panelboard Manufacturer v DCIT [2023] 157 taxmann.com 550 (Guj) and that the decision of the Hon'ble Supreme Court in Wipro Limited (supra) relied upon by the Ld. CIT(A) has clearly been distinguished by the Hon'ble Gujarat High Court in the case of CIT(E) v Shri Laxmanarayan Dev Shrishan Seva Khendra (supra).

16. In view of the above, we are of the opinion that filing of Form 10B is only a procedural-cum-directory requirement and therefore, once the conditions for claiming exemption u/s.11 has been substantively fulfilled, the bar of limitation on furnishing of such audit report would not result in grave consequence of denial of exemption u/s.11 of the Act and thus we direct the AO to grant exemption as claimed by the assessee u/s.11 of the Act.

8. In view of the aforesaid order of the Coordinate Bench in the assessee's own case, we hold that filing of Form No.10B is only a procedural and directory requirement. Accordingly, exemption u/s.11 of the Act cannot be denied solely on the ground that Form No.10B was filed belatedly. We, therefore, direct the AO to grant exemption u/s.11 of the Act as claimed by the assessee, subject to the fulfilment of the other substantive conditions prescribed under the Act. It is ordered accordingly.

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

Order pronounced in the open court on 3rd August, 2026 at Chennai.

Sd/-	*Sd/-*
(पद्मावती एस)	(जॉर्ज जॉर्ज के)
(PADMAVATHY S)	**(GEORGE GEORGE K)**
लेखा सदस्य/ACCOUNTANT MEMBER	उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated, the 3rd August, 2026

RSR, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Coimbatore
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.

By Order

REKHA SENTHIL RAJ

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