

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'SMC' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

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|--------------------------|
| ITA No.1485/Bang/2025    |
| Assessment Year: 2021-22 |

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| M/s Fig Tree Foundation,<br>No.8, Carlestone Road,<br>Cooke Town,<br>Bangalore – 560 005.<br><br><b>PAN – AAATF 7841 C</b> | Vs. | The Income Tax Officer<br>[Exemptions],<br>Ward – 01,<br>Bengaluru. |
| APPELLANT                                                                                                                  |     | RESPONDENT                                                          |

|             |   |                                                                 |
|-------------|---|-----------------------------------------------------------------|
| Assessee by | : | Shri B.V Guruprasad, CA                                         |
| Revenue by  | : | Shri Ganesh R Ghale, Advocate – Standing<br>Counsel for Revenue |

|                       |   |            |
|-----------------------|---|------------|
| Date of hearing       | : | 15.09.2025 |
| Date of Pronouncement | : | 03.11.2025 |

**ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

This is an appeal filed by the assessee against the order of the Addl/JCIT(A)-11, Delhi vide order dated 25/09/2024 in DIN No.ITBA/APL/S/250/2024-25/1069089796(1) for the assessment year 2021-22.

2. At the outset, I note that there is a delay in filing the appeal by the assessee before me for 216 days. The assessee has filed the affidavit explaining the reasons for the delay and therefore seeking for the condonation of the appeal filed by the assessee. It was explained that the order passed by the learned CIT(A) was communicated through the

e-mail but the same has gone to the SPAM and therefore the assessee was not aware of the fact of having passed the order by the learned CIT(A).

3. As per the assessee, it came to know the fact of having passed the order by the Id. CIT-A on the receipt of recovery notice dated 6 December 2024. Immediately thereafter, the assessee started searching for a new tax consultant, as the earlier consultant who appeared before the CIT(A) was disengaged. Finally, the assessee engaged a new consultant in July 2025. Immediately thereafter, the appeal was filed. However, in this process the delay of 216 has occurred beyond the control of the assessee. Accordingly, the learned AR prayed for the condonation of the delay in filing the appeal by the assessee and decide the issue on merits of the case.

4. On the other hand, the learned DR opposed to condone the delay. According to the learned DR, the assessee was not vigilant and therefore the appeal should be dismissed on this ground alone.

5. I have heard the rival contentions of both the parties and perused the materials available on record. From the preceding discussion, I note that the delay of 216 days in filing the appeal by the assessee before me is attributable to two reasons as narrated below:

- i. The delay attributable on account of serving of the order in SPAM folder.
- ii. Searching of a new tax consultant which has taken nearly 6 months time.

5.1 As regards the 1st reason stated above, I find some force in the argument of the learned counsel for the assessee though the same is not supported by any direct evidence but through the affidavit only. In the scenario of digital communication, the possibility of going the order of learned CIT(A) in the spam folder cannot be ruled out. So, I find a plausible reason to this extent as supported by the affidavit.

5.2 Regarding the 2nd reason, I am unable to convince myself that the assessee has taken 6 months time to find out a new tax consultant. It is difficult to believe to my mind for the reason that in the current scenario when the digital communication is so advanced so as to get the desired information very easily. Thus, the contention of the learned AR that the assessee has taken six months in trying to find out a new tax consultant is not a plausible reason. Therefore, I hold that the assessee had been negligent in pursuing the matter before the ITAT. Hence, I am inclined to impose cost of ₹ 1000 to be deposited by the assessee in the Prime Minister Relief Fund on account of his negligent approach.

5.3 I also note that the case of the assessee on merit is strong and therefore I am of the view that a meritorious case should not be dismissed on account of technical lapses. Hence, I condone the delay and proceed to adjudicate the issue on merit of the case.

5.4 On merit, I note that the benefit of exemption under section 11 of the Act has been denied by the CPC on the reasoning the assessee has not furnished the details of the registration under section 12AB of the Act in the return of income. Though, the assessee claimed that it is

entitled for the benefit of exemption under section 11 of the Act. However, in the absence of the necessary details, the CPC denied the benefit of exemption under section 11 of the Act and the gross receipt of the assessee has been brought to tax.

5.5 On appeal, the learned CIT(A) dismissed the appeal filed by the assessee on the ground that it was the duty of the assessee to fill up the relevant and the necessary details in the return of income. But the assessee failed to furnish necessary details of having registration under section 12 AB of the Act.

6. Being aggrieved by the order of learned CIT(A), the assessee is in appeal before me.

7. The learned AR before me filed a paper book running from pages 1 to 57 along with the annexures and case law compilation. It was the contention of the learned AR that the the fact of having registration under section 12 AB of the Act was already available with the income tax department and therefore the benefit of section 11 cannot be denied to the assessee merely on the reasoning that the assessee failed to furnish the necessary registration details in the income tax return. As such the revenue before rejecting the claim of the assessee should have internally verified about having the registration details under section 12AB of the Act.

8. In addition to the above, the learned counsel submitted that the receipts shown by the assessee cannot be brought to tax on gross basis

without allowing the benefit of the application claimed by the assessee in the return of income. Taxing the gross receipt is against the settled provisions of law. It was argued that if the application shown by the assessee is deducted from the amount of gross receipt and therefore there is no income left for the revenue for charging any tax on the same. On the other hand, the learned DR vehemently supported the order of the authorities below.

9. I have heard the rival contentions of both the parties and perused the materials available on record. The limited issue before us is whether the learned CIT(A) is correct in denying the benefit of exemption under section 11 of the Act on the reasoning that the assessee failed to furnish the necessary details in the income tax return with respect to the registration under section 12AB of the Act. Undeniably, once the assessee is claiming the benefit of exemption under section 11 of the Act, then the assessee has to furnish the necessary details in the income tax return. Income tax return is the 1<sup>st</sup> stage which speaks about the financial transactions (along with other details) carried out by the assessee. If, the necessary details are missing from the income tax return, then the CPC shall process the return of income based on the information available in the income tax return. So, in my considered opinion, there was nothing wrong in CPC processing the return without granting exemption under section 11 of the Act.

9.1 However, the mistake observed by the CPC was brought to the notice by the assessee before the learned CIT(A) which in my considered opinion should have been rectified as per the provisions of law. The

revenue cannot take the advantage of the mistakes committed by the assessee. In other words, the deduction claimed by the assessee cannot be denied on account of some clerical errors on the part of the assessee. The income has to be assessed within the 4 corners of law. Indeed, the assessee did not file the revised return of income in the given facts and circumstances by rectifying the mistake committed by it. But that does not mean the Id. CIT-A is now deprived of taking the cognizance of the errors committed by the assessee which were duly brought to the notice by the assessee. Accordingly, I am not convinced with the finding of the learned CIT(A).

9.2 In addition to the above. I also notice the fundamental mistake committed by the revenue. The revenue in the present case in the absence of registration details under section 12 AB of the Act, has treated the gross receipts of the assessee as income which is contrary to the settled provisions of law. The assessee has shown application as expenses against such gross receipts, which covers the entire amount of receipt. Therefore, I am of the view that the revenue erred in treating the amount of gross receipt as income of the assessee.

9.3 Nevertheless, in view of the facts that the assessee is entitled for the benefit of exemption under section 11 of the Act, in the given facts and circumstances, the assessee's grievance goes in its favour. Hence, I set aside the finding of the learned CIT(A) and direct the AO to delete the addition made by him. Thus, the ground of appeal of the assessee is hereby allowed.

10. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in court on 3<sup>rd</sup> day of November, 2025

Sd/-

**(WASEEM AHMED)**  
Accountant Member

Bangalore  
Dated, 3<sup>rd</sup> November, 2025  
/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore