

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"H (SMC)" BENCH, MUMBAI**

**SHRI VIKRAM SINGH YADAV ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.549/MUM/2026  
(Assessment Year:2021-2022)**

**Tehmina K. Katrak Charitable Trust**

Avabai Mansion, 15, Henry Road, Colaba,  
Mumbai – 400001. Maharashtra  
[PAN:AAATT0897L]

..... **Appellant**

**Income Tax Officer Exemption Ward  
2(4), Mumbai**

Aayakar Bhavan, M. K. Road,  
Mumbai – 400020. Maharashtra.

Vs

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Porus Kaka &  
Shri Divesh Chawla  
For the Respondent/Department : Shri Pravin Salunkhe

**Date**

Conclusion of hearing : 09.03.2026  
Pronouncement of order : 12.03.2026

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. The present appeal has been preferred by the Assessee against the Order, dated 11/11/2025, passed by the Additional/Joint Commissioner of Income Tax (Appeals), Mysore [hereinafter referred to as the '**CIT(A)**'], whereby the Learned CIT(A) had dismissed the appeal of the Assessee against the Order, dated 15/03/2022, passed under Section 154 of the Income Tax Act, 1961 [hereinafter referred to as '**the Act**'], for the Assessment Year 2021-2022.
2. The Assessee has raised following grounds of appeal:
  - "1. *That the Ld. CIT(A) erred in law and on facts in confirming the disallowance of exemption under section 11 of The Income Tax Act, 1961.*

2. *The CIT(A) erred in holding that there was alleged delay in filing Form 10B, ignoring that the return filing due date stood extended to 15.03.2022 by CBDT Circular No. 01/2022*
  3. *That the Ld. CIT(A) ought to have held that Form 10B was in fact uploaded within the extended time and due to the technical glitches of the new portal (Launch date 07.06.2021) cannot deprive a charitable trust of substantive exemption.*
  4. *Without prejudice to the above, the Ld. CIT(A) erred in holding that delay in uploading Form 10B is fatal, contrary to settled law that such requirement is directory and procedural, and delay (if any) is condonable.*
  5. *The Ld. CIT(A) ought to have held that the rectification u/s 154 denying the Trust exemption itself was without jurisdiction, and not a "mistake apparent from record".*
  6. *Your Appellant prays that the Deputy Commissioner of Income Tax, CPC, (DCIT) be directed to grant the exemption under Section 11 of The Income Tax ACT, 1961 and cancel the demand accordingly."*
3. We have heard the Learned Senior Counsel appearing on behalf of the Assessee and the Learned Departmental Representative and have perused the material on record.
4. The present appeal pertains to the Assessment Year 2021-2022. On consideration of difficulties faced due to COVID Pandemic and in electronic filing of various reports of audit under the provisions Act, the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119 of the Act, relaxed the timelines for compliances under the vide Circular No. 01/2022 [F. No. 225/49/2021/ITA-II] dated 11th January, 2022. The relevant extract of the said circular reads as under:

***"Subject: - Extension of timelines for filing of Income-tax returns and various reports of audit for the Assessment Year 2021-22– reg.***

*On consideration of difficulties reported by the taxpayers and other stakeholders due to COVID and in electronic filing of various reports of audit under the provisions of the Income-tax Act,1961 (Act), the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119 of the Act,*

provides relaxation in respect of the following compliances:

1. *The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which was 30th September 2021, in the case of assessee referred in clause (a) of Explanation 2 to sub-section (1) of section 139 of the Act, as extended to 31st October 2021 and 15th January 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th February, 2022;*
2. *The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which was 31st October, 2021, in the case of assessee referred in clause (aa) of Explanation 2 to sub-section (1) of section 139 of the Act, is hereby extended to 15th February, 2022;*
3. *The due date of furnishing of Report from an Accountant by persons entering into international transaction or specified domestic transaction under section 92E of the Act for the Previous Year 2020-21, which was 31st October 2021, as extended to 30th November 2021 and 31st January 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th February, 2022;*
4. *The due date of furnishing of Return of Income for the Assessment Year 2021-22, which was 31st October 2021 under sub-section (1) of section 139 of the Act, as extended to 30th November 2021 and 15th February 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th March, 2022;*
5. ***The due date of furnishing of Return of Income for the Assessment Year 2021-22, which was 30th November 2021 under sub-section (1) of section 139 of the Act, as extended to 31st December 2021 and 28th February 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th March, 2022.***

*Clarification 1: It is clarified that this extension shall not apply to Explanation 1 to section 234A of the Act, in cases where the amount of tax on the total income as reduced by the amount as specified in clauses (i) to (vi) of sub-section (1) of that section exceeds one lakh rupees.*

*Clarification 2: For the purpose of Clarification 1, in case of an individual resident in India referred to in sub-section (2) of section 207*

*of the Act, the tax paid by him under section 140A of the Act within the due date (without extension under Circular No.9/2021, Circular No.17/2021 and this Circular) provided in that Act, shall be deemed to be the advance tax.” (Emphasis Supplied)*

5. Thus, extended time till 15/03/2022, was granted for filing return of income for the Assessment Year 2021-2022. In the present case the Assessee, a registered charitable trust, filed return of income for the Assessment Year 2021-2022 on 11/01/2022 claiming exemption under Section 11 of the Act. It is admitted position that the return of income was filed within the extended time granted by the above Circular No. 1/2022. The exemption claimed by the Assessee under Section 11 of the Act was denied to the Assessee on the ground that Form 10B was filed by the Assessee belatedly on 19/02/2022.
6. The claim of the Assessee is that Form 10B was filed on 11/01/2022 along with the return of income. However, on account of technical issues that same was not reflected at the income tax portal. Therefore, Form 10B was refilled on 19/02/2022. It was submitted that, initially, Intimation Order, dated 10/08/2022, was passed under Section 143(1) of the Act accepting the return of income filed by the Assessee for the Assessment Year 2021-2022. However, subsequently, by way of suo-moto Rectification Order, dated 13/2/2023, passed under Section 154 of the Act, the exemption claimed by the Assessee under Section 11 of the Act was denied on the ground that Form 10B was filed by the Assessee belatedly on 19/02/2022.
7. The primary contention of the Assessee is that 11/01/2022 should be taken as the date of filling Form 10B. While the contention of the Revenue is that the Form 10B was finally uploaded on 19/02/2022 and therefore, 19/02/2022 should be taken as date of filing Form 10B.
8. On perusal of record we find that there is no dispute as to the fact that on 11/01/2022, the chartered accountant had '*accepted the request for F10B for the Assessment Year 2021*'. The Learned CIT(A) has

observed that mere acceptance of assignment to file Form 10B by the chartered accountant does not constitute filing of audit report. The Learned CIT(A) has also noted that no proof of filing Form 10B on 11/01/2022 was furnished by the Assessee.

9. We note that the Assessee had explained before the Learned CIT(A) that the Form 10B could not be uploaded but '*due to technical issues in the new income tax portal at the time, the same had not been reflected on the income tax portal*'. The fact that the taxpayers were experiencing difficulties in undertaking compliances under the Act '*in electronic filing of various reports of audit*' was recognized while issuing Circular No. 1/2022. As a result, the timelines for filing audit report and return of income were relaxed.
10. It is admitted position that in the present case the Assessee had attempted to file Form 10B within the specified time. The material on record shows that the Assessee had filed return of income for the Assessment Year 2021-2022 on 11/01/2022 and had, on the same day (i.e. 11/01/2022), taken steps to file Form 10B. We note that while processing return of income, specific query in this regard was raised upon the Assessee. The Assessee received intimation, dated 01/07/2022, as per Proviso to Section 143(1) of the Act regarding proposed adjustments wherein it was stated as under:

*"The Trust or Institution registered under Section 12A/12AA/12AB has not E filed the Audit Report in Form 10B one month prior to the due date for furnishing return under Section 139(1). Hence the exemption amounting to INR.3,29,425/-claimed in Sr.no. 2 exemption claimed u/s 11(1)(d) and Sr.no. 4i to 4viii of Part B-TI is not allowable in accordance with the provisions of Section-12A (1) (b) of the Income tax Act."*

11. In response the Assessee provided following explanation:

*"Form 10B had been filed which due to technical issues in the Income Tax Website was not approved even after submission. Hence the form was resubmitted. As it is a technical issue of website exemption should be allowed"*

12. After considering the above explanation, the return of the Assessee was processed by the Central Processing Centre – Assessing Officer [for short '**CPC – Assessing Officer**'] accepting the returned income and allowing the exemption claimed by the Assessee under Section 11 of the Act vide Intimation Order, dated 10/08/2022, issued under Section 143(1) of the Act.
13. We note that, thereafter, vide suo-moto Rectification Order, dated 13/02/2023, the CPC-Assessing Officer rectified the above Intimation Order, dated 10/08/2022, disallowing the exemption claimed by the Assessee under Section 11 of the Act on the ground that Form 10B was filed belatedly. On perusal of the aforesaid Rectification Order we find the reasoning given is identical to the reasoning given for the proposed adjustment and the same reads as under:

***“Incorrect Claim under Section 143(1)(a)(ii)***

<b>Amount in INR</b>					
<b>Sl No.</b>	<b>Schedule</b>	<b>Error Description</b>	<b>In Income Tax Return</b>	<b>As computed</b>	<b>Variance</b>
1.	Part B-TI/Part A-General Information	The rust or Institution registered u/s 12A/12AA/12AB has not E-filed the Audit Report in Form 10B one month prior to the due date for furnishing return u/s.139(1). Hence the exemption claimed in Sr. no.2 [exemption claimed u/s.11(1)(d) and Sr. no.4i to 4viii of Part B-TI is not allowable in accordance with the provisions of Section-12A(1)(b) of the Income tax Act.	3,29,425	0	3,29,425

...”(Emphasis Supplied)

14. From the material on record it is clear that the query regarding belated filing of Form 10B was raised at the time of processing return

of income. The Assessee had explained that the Form 10B was originally filed on 11/01/2022 but *'due to technical issues in the new income tax portal, the same had not been reflected on the income tax portal.* Therefore, Form 10B was refilled on 18/02/2022. The CPC – Assessing Officer considered the explanation furnished by the Assessee and accepted the same. We are of the view, having proceeded as aforesaid, the CPC-Assessing Officer erred in invoking the provisions contained in Section 154 of the Act; and that too without granting the Assessee any opportunity of being heard. It is not the case of the Revenue that the Assessee had acted in a malafide manner. On the other hand, the material on record shows that the CPC – Assessing Officer had accepted the contention of the Assessee that Form 10B for Assessment Year 2021-2022 was originally filed on 11/01/2022. In case the CPC-Assessing Officer was to dispute the aforesaid position, and contend that Form 10B was filed by the Assessee belatedly on 18/02/2022, the same would amount to adjudicating a disputed question of fact and review of the earlier decision to accept 11/01/2022 as the date of filing Form 10B. In our view, having called for explanation from the Assessee regarding the date of filing of Form 10B and having accepted the same vide Intimation Order, dated 10/08/2022, passed under Section 143(1) of the Act, the CPC-Assessing Officer cannot be permitted to review the earlier decision in the guise of correcting a mistake apparent on record under Section 154 of the Act. We have already noted hereinabove that the Assessee was not put to notice in terms of Section 154(3) of the Act before passing the Rectification Order under Section 154(1)(b) of the Act. Accordingly, we set aside the Order, dated 13/02/2023, passed under Section 154 of the Act. As a result, the Intimation Order, dated 10/08/2022, issued under Section 143(1) of the Act stands restored. In view of the aforesaid, Ground No.1,2,3,5 and 6 raised by the Assessee are allowed, while Ground No. 4, raised on without prejudice basis, is dismissed as having been rendered infructuous.

15. In result, in terms of above, the Appeal preferred by the Assessee is allowed.

Order pronounced on 12.03.2026.

*Sd/-*  
**(Vikram Singh Yadav)**  
**Accountant Member**

*Sd/-*  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 12.03.2026  
Milan, LDC

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त/ Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापितप्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai