THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH

Before Shri Narendra Prasad Sinha, Accountant Member
And Shri Tapas Ram Misra, Judicial Member

ITA Nos: 582 & 583/Ahd/2026
Assessment Years: 2018-19 & 2019-20

Shree Takshshila Foundation (Ngo) 15-B, Suhas Society, Harni. B.O. Vadodara , Gujarat, Vadodara-390022, Gujarat **PAN: AAATT5363K** **(Appellant)**	Vs	The ITO Ward (Exemption) Room No. 224, 2nd Floor , Old Geb Building, Race Course Circle, Vadodara Vadodara-390007, Gujarat **(Respondent)**

Assessee by: Shri Divyakant Parikh, A.R.
Revenue by: Shri Amit Pratap Singh, Sr. DR

Date of hearing : 18-08-2026
Date of pronouncement : 15-10-2026

आदेश/ORDER

PER TAPAS RAM MISRA, JUDICIAL MEMBER:

The present appeals have been filed by the Assessee against the order of the Ld. Addl. Commissioner of Income Tax/JCIT(A), Kochi (hereinafter referred to as "JCIT(A)"), dated 30.12.2025 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") and relate to Assessment Years (A.Ys.) 2018-19 & 2019-20.

2. The assessee has raised the following grounds of appeal for Asst. Year 2018-19:

"1. The learned CIT(Appeals) [ADDL.JCIT[A]-KOCHI] has grievously erred both in law and on facts in dismissing the appeal of the appellant on the ground of delay in submitting Form No: 10B which was filed and available before ld CPC while processing return and RETURNED INCOME WAS ALSO ACCEPTED BY CPC IN INTIMATION DATED 18.10.2019. The rectification u/s 154 carried on suo moto dated 18.09., 2023 ought to be cancelled. It be so held now.

2. Without prejudice to the above, the ld ADDL.JCIT[A] KOCHI FURTHER ALSO ERRED IN LAW AND ON FACTS IN NOT APPRECIATING THAT THE APPELANT Trust had rightly claimed exemption u/s 11/12 as per law when Form No: 10B WAS AVIALBEL TO CPC at the time of processing return u/s 143(1) and later rectification done by CPC was for altogether different reasons and different proposed variation without proper opportunity to appellant. It be so held now and order of Id ADDL.JCIT[A)- Kochi be set aside.

3. Without prejudice to the above grounds, the ld ADDL.JCIT.[A] also grievously erred both in law and on facts in not appreciating that for amount of Rs.1,59,84,840/-applied for charitable /education objects against gross receipts of Rs.1,58,54,362/-and accumulated 15% of receipts at Rs.23,78,154/- was claimed as per law and hence claim as per Return ought to be allowed in Toto when the rectification made is even more than gross receipts being without application of mind. It be so allowed now.

4. Without prejudice to the above grounds, the ld ADDL,JCIT[A] Kochi also grievously erred in law and on facts in deciding the ground of Form No: 10B being belated himself when such requirement is procedural as held in appellants own case for A.Y. 2022-23 by ITAT.

5. The ld ADDL,JCIT[A] Kochi also erred in law and on facts in not deciding the other grounds of not allowing deduction of amount applied for charitable/ education purposes and it was only net income if any, that could be taxed. It be so held now.

6. The ld ADDL,JCIT[A] further erred in law and on facts in not fully and properly considering the submissions and contentions of the appellant while passing the order dismissing the appeal. It be so held now and the order passed by him be set aside.

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7. The Order passed by ld ADDL,JCIT [A] in violation of principles of natural justice deserves to be cancelled. It be cancelled now and Return be directed to be accepted in toto.

8. The appellant craves leave to add, alter, modify or delete any of the grounds at the time of hearing."

2.1 The assessee is a charitable Trust established on 25-09-2001 and registered u/s 12A on 27-03-2002. The assessee is engaged in running schools and has been filing its Tax return regularly as a charitable Trust claiming exemption u/s 11 & 12 of the Act. The assessee filed its return of income alongwith Form No. 10B on 31-10-2018 and the same was accepted vide intimation u/s 143(1) dated 18-10-2019. Subsequently vide order u/s 154 dated 18-09-2023 the CPC made a suo-moto rectification of the intimation u/s 143(1), disallowed the entire expenses claimed by the assessee (including the revenue expenses of Rs.1,59,84,840/- and accumulation of Rs.23,78,154/-).

3. As the assessee was not given any notice proposing such rectification, it had no opportunity to understand why the rectification was proposed and to respond to the same. A perusal of the said order u/s 154 dated 18-09-2023 does not reveal the reasons for rectification as the space for the same in the format appears to be blank.

4. Aggrieved by this order, the assessee challenged it in appeal which was disposed of by the Ld. JCIT(A), Kochi vide the impugned order dated 30-12-2025. The Ld. JCIT(A) has reproduced all the Statement of Facts, Grounds of Appeal and Written Submissions filed by the assessee in the body of the impugned order. The Ld. JCIT(A) also reproduced, in the body of the order, the rectification order u/s 154 of the Act and also a communication from the CPC dated 19-08-2019 with the subject "communication of proposed adjustment u/s 143(1)(a) of the Income Tax Act, 1961". In the Error Description attached to the said letter, it is

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mentioned that exemption claimed in Serial No. 4 is more than the income offered in Serial No. 2 and proposed a variation of Rs.25,08,632/-. The Ld. JCIT(A) held that it is evident that the CPC had issued a communication on 19-08-2019 to the assessee in respect of the proposed adjustment u/s 143(1)(a) of the Act and only thereafter the CPC has processed the return on 26-09-2019.

5. The Ld. JCIT(A) thereafter recorded a finding that Form 10B was belated on the ground that the assessee had filed Form 10B on 31-10-2018 along with its return of income and that the assessee was required to file Form 10B one month before the due date of filing of return. The Ld. JCIT(A) has then referred to CBDT Circular No. 16/2022 dated 19-07-2022 to conclude that the power u/s 119(2) of the Act to condone the delay and filing Form 10B for Asst. Year 2018-19 and subsequent years, vests with the Commissioner of Income Tax for a delay of 365 days and with the Principal Chief Commissioner of Income Tax/Chief Commissioner of Income Tax if the delay is beyond 365 days up to 3 years. It is held in the impugned order that the power to condone the delay was not vested with the JCIT(A) and on that ground the appeal was dismissed.

6. We have gone through the relevant details and heard Shri Divyakant Parikh, ld. A.R. and Shri Amit Pratap Singh, Ld. Sr. DR. The Ld. A.R. submits that there was no delay in filing Form 10B. The requirement to file Form 10B one month prior to the due date of filing of return was introduced with effect from Asst. Year 2020-21 and the same was not relevant for Asst. Year 2018-19 with which we are concerned. The Ld. A.R. also pointed out that CPC erred in not providing a notice about the proposed rectification and even on merits erred in disallowing all the expenses incurred by the assessee Trust. It was submitted that income of a Trust has to be computed with reference to its gross receipts as reduced by the expenses pertaining to its

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activities and objects. The assessee in this case operates several schools and all its expenses related to the running of the schools. In fact, for the Asst. Year under appeal, the assessee's expenses were in excess of its gross receipts and therefore the assessee was not effectively getting any exemption u/s 11 of the Act which exempts the surplus of income/expenditure to the extent of 15% of such income. In case the surplus exceeds 15% then if the same is accumulated for the purposes of the Trust subject to the satisfaction of condition mentioned in the law, then such excess is also exempted. In a case where the expenditure itself exceeds the income, there is no occasion to claim exemption u/s 11 and that the CPC was totally in error in disallowing the entire expenditure.

7. The ld. Sr. D.R. drew our attention to Para 6.3 of the CIT(A)'s order to submit that the JCIT(A) had noted that the CPC had given an opportunity to the assessee by issuing a communication dated 19-08-2019 before processing the return of income u/s 143(1) of the Act.

8. We have given our careful consideration to the submissions of the Ld. A.R. and Ld. Sr. D.R. and we have also examined documents filed before us.

9. Prima facie, we find that the Ld. JCIT(A) erred in failing to notice the following:

(i) The error pointed by CPC in its communication dated 19-08-2019 was not carried out in the intimation issued u/s 143(1).

(ii) The said error as per the Annexure to the aforesaid communication merely stated that the exemption claimed was more than the income offered. The CPC does not appear to have noted the distinction between expenses incurred and exemption claimed.

(iii) The CPC had nowhere mentioned that the filing of Form 10B was belated.

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(iv) If the rectification order u/s 154 was passed because the error pointed in the communication dated 19-08-2019 was not applied in the intimation issued u/s 143(1), then the CPC acted beyond the scope of Section 154 which permits rectification of only mistakes apparent from record. The said section does not allow rectification in respect of any debatable issue much less a claim which is patently not incorrect.

(v) The Ld. JCIT(A) also erred in assuming that the assessee had filed Form 10B belatedly by filing it along with the return on the due date of filing of return. This was not an issue raised even by the CPC because, for Asst. year 2018-19, there was no need for a charitable Trust to file Form 10B one month prior to the due date of filing of return.

(vi) The Ld. JCIT(A) also erred in assuming the assessee was seeking condonation of delay in the appeal filed by it whereas the assessee was merely seeking reversal of the 154 order and restoration of the intimation u/s 143(1) on the ground that there was no error in the said intimation which could be rectified u/s 154.

10. We are satisfied that there was no delay caused by the assessee in filing Form 10B which was filed on 31-10-2018 being the due date of filing of return. The statutory requirement to file the same one month prior to the due date had not been introduced in Asst. Year 2018-19. Besides, the CPC itself had not raised this issue. Further, assuming the CPC sought to rectify the intimation u/s 143(1) on the ground that the assessee had claimed exemption of an amount more than the income, then that suggestion itself was prima facie erroneous. Where the assessee incurred expenses for carrying out the objects of the Trust and such expenses exceeded the gross receipts, so the assessee had effectively incurred a loss and not claimed an exemption which was more than the income offered. We therefore set-aside the order of the Ld. JCIT(A) and hold that the rectification order u/s 154 of the Act erroneous in law and on facts.

11. In the result, **the appeal of the assessee is allowed.**

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12. The short issue involved in the case is that the assessee had filed its return on the due date. The CPC proposed to disallow exemption u/s 11 of the Act on the ground that the assessee had not furnished the details of registration u/s 12A/12AA of the Act. Thereafter the CPC processed, the return u/s 143(1), disallowing the amount applied by the assessee during the relevant previous year and raising a demand for tax. Subsequently, the assessee filed a request for rectification of the intimation which was not accepted in the order u/s 154 dated 18-09-2023 passed by CPC. In the documents filed by the assessee in the paper book, we do not find a copy of the application filed by the assessee u/s 154. However the assessee has filed copies of Certificates of Registration u/s 12A and 80G of the Act.

13. The Ld. JCIT(A) has dismissed the appeal for the reason that no one appeared at the time of hearing of the appeal and no details were filed by the assessee.

14. The Ld. A.R. prays that the matter be set-aside to the Jurisdictional Assessing Officer to enable the assessee to file the relevant details.

15. On a careful consideration to the facts and circumstances, we notice that the only reason for disallowance of all expenses in the Intimation u/s 143(1) is that the CPC did not find evidence of registration on record. As we have held above, while disposing of ITA No. 582/Ahd/2016 in the assessee's own case for the Asst. year 2018-19, the assessee was accepted to be registered u/s 12A in that year. We have also held that the disallowance of all the expenses incurred by an assessee was not permitted in law. In the event of any deficiency in the claim for exemption u/s 11 only that amount, which is exempt by operation of statute, i.e., the surplus remaining after taking into account all the expenses necessary for carrying out the objects of the Trust,

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that can be considered for disallowance and not the entire expenditure. If the assessee is registered u/s 12A, then it will be harsh to disentitle the assessee from claiming exemption u/s 11 merely because the documents could not be submitted in the course of a particular proceedings.

16. We therefore set-aside this order of the Ld. CIT(A) and restore the matter to the Jurisdictional Assessing Officer who shall dispose of the assessee's application for rectification u/s 154 by examining the documents evidencing registration u/s 12A of the Act and if found to be in order, allow exemption u/s 11. In any case, the Jurisdictional Assessing Officer shall keep in mind that the expenses legitimately incurred while carrying out the objects of the Trust which, in this case, is running of schools, then such expenses have to be allowed and its only the surplus, if any, that may be considered for disallowance if the evidence of registration is not furnished the assessee. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

This Order is pronounced on 15/10/2026

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER

Sd/-
(TAPAS RAM MISRA)
JUDICIAL MEMBER

Ahmedabad : ***True Copy***
Dated 15/10/2026
Rajesh

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)

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5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद