आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No.1806/Chny/2026**
निर्धारण वर्ष / Assessment Year: 2019-20

Victoria Educational Trust 3/534 Muchaimedu Mallapadi Village Post Bargur, Krishnagiri – 635 104.	vs.	**The Income Tax Officer** Exemption Ward Salem.
[PAN: AABTV2919A] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Ms. R.Sumedha, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri. E.Elango, JCIT
सुनवाई की तारीख/Date of Hearing : 11.08.2026
घोषणा की तारीख/Date of Pronouncement : 05.10.2026

आदेश /O R D E R

PER S. R. RAGHUNATHA, AM :

This appeal by the assessee is arising out of the order dated 22.10.2025 passed by the Learned Commissioner of Income Tax (Appeal)-3, Delhi (in short "ld.CIT(A)") for the assessment year (A.Y) 2019-20 against the order u/s.154 of the Income Tax Act, 1961 (hereinafter the 'Act') passed by the Income Tax Officer, Exemption Ward, Salem (in short 'AO'), dated 18.11.2024.

2. At the outset, it is noticed that the present appeal has been instituted by the assessee with a delay of 89 days beyond the period prescribed under the Act. The assessee has filed an affidavit setting forth the reasons and circumstances which occasioned the delay in preferring the appeal within the

stipulated time. We have carefully considered the contents of the affidavit and examined the explanation tendered by the assessee. Having regard to the facts and circumstances of the case, and being satisfied that the assessee was prevented by sufficient and reasonable cause from filing the appeal within the prescribed period, we are of the considered opinion that the delay does not appear to be deliberate, intentional or attributable to any mala fide conduct.

3. It is a settled proposition of law that, while considering an application for condonation of delay, a liberal and justice-oriented approach is required to be adopted so as to advance substantial justice, particularly when no prejudice is shown to have been caused to the opposite party. In the present case, we are satisfied that sufficient cause has been demonstrated by the assessee for the delay in filing the appeal. Accordingly, the delay of 89 days in filing the present appeal is condoned, and the appeal is admitted for adjudication on merits in accordance with law.

4. The brief facts emanating from the records are that the assessee is an educational trust engaged in running an educational institution under the name and style of Victoria Matriculation School. The assessee has been regularly filing its return of income in Form ITR-7 in the status of Association of Persons / Body of Individuals (AOP/BOI). For the Assessment Year 2019-20, the assessee filed its return of income on 24.06.2020 claiming exemption u/s.11 of the Act. The said return was processed u/s.143(1) of the Act and an intimation dated 22.10.2020 was issued by the Centralized Processing Centre (“CPC”). However, while processing the return, credit was not granted in respect of the amounts claimed towards expenditure, application of income, and accumulation of income by the assessee. The entries furnished by the assessee in the return were allegedly treated as “Nil”, resulting in a consequential demand of Rs.61,35,679/-.

5. Aggrieved by the aforesaid adjustment, the assessee filed an application for rectification u/s.154 of the Act on 03.05.2024 seeking rectification of the

intimation issued u/s.143(1) for the Assessment Year 2019-20. As per section 12A(1)(b) of the Act, the audit report for the A.Y.2019-20 in Form 10B should have been filed along with the return of income on or before 31.10.2019. However, the assessee filed the return on 24.06.2020 declaring a loss of Rs.10,16,037/-and filed the audit report in form 10B on 06.06.2020. Since, the assessee had not filed the condonation petition before the ld.CIT(E), application filed u/s.154 of the Act was rejected by passing an order dated 18.11.2024. Further, the AO observed that the assessee had been granted with registration u/s.12AA of the Act only from A.Y.2020-21 vide order dated 03.08.2020.

6. Aggrieved by the said rectification order dated 18.11.2024, the assessee preferred an appeal before the ld.CIT(A). Before the ld.CIT(A), the assessee submitted the written submission by explaining the nature of activities and filing of return of income and belated filing of audit report and Form 10B. On perusal of the submission, the ld.CIT(A) dismissed the appeal of the assessee by holding as under:-

> *"5.1 The appellant was issued notice u/s. 250 of the IT Act. On the basis of statements of facts and the documents furnished along with the Form 35, the appeal is decided on merit.*
>
> *5.2 I have considered the appellant's submissions and the material on record. It is observed that the appellant, a trust running "Victoria Matriculation School" with about 800 students, claims to provide education at subsidized rates and free transport to 25% of its students. For AY 2019-20, appellant filed a return in Form ITR-7 on 28.08.2020 under Section 139(9), declaring NIL income and claiming exemption under Sections 11 and 12. However, since the trust did not hold registration under Section 12A for the relevant year, the return was processed under Section 143(1) without allowing exemption claimed under section 11 and 12 of the IT Act, resulting in a tax demand of Rs. 61,35,679. The appellant filed rectification applications under Section 154 on 03.05.2024 and 15.10.2024, which were subsequently rejected by the Assessing Officer (CPC) on the ground that no registration under Section 12A existed during the relevant year.*
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> *5.3 It is pertinent to note that the appellant was not registered under Section 12A of the Income-tax Act, 1961, during the relevant Assessment Year 2019-20. On perusal of the order for registration under Section 12AA of the Income Tax Act, 1961, issued by the CIT (Exemption), Chennai, dated 03.08.2020, it is observed that the provisions of Sections 11 and 12 shall apply to the appellant from the relevant assessment year. The law is well settled that exemption under Sections 11 and 12 is available only to trusts or institutions which are duly registered under*

Section 12A/12AA, as per the provisions of the Income-tax Act. In the absence of such registration, the trust cannot claim exemption under these sections, regardless of the charitable nature of its activities. The appellant's argument that the activities are charitable, and therefore the exemption should be granted, cannot override the statutory requirement of registration under Section 12A. The law does not permit such exemption in the absence of registration, even if the income is applied for charitable purposes. Furthermore, the rectification application under Section 154 was rightly rejected by the Assessing Officer, as the issue involves interpretation of law and cannot be treated as a mistake apparent from the record. Accordingly, I find no merit in the appeal, and the same is hereby dismissed."

7. Aggrieved by the order of the ld.CIT(A), the assessee preferred an appeal before us by raising multiple grounds of appeal and ld.AR for the assessee pressed only the following ground and withdrew all other grounds as not pressed:-

EXPENDITURE/APPLICATION OF INCOME HAS TO BE TAKEN INTO ACCOUNT BEFORE DETERMINING THE DEMAND

H. The Learned CIT(A) failed to adjudicate the alternate ground preferred by the Appellant that in the event of treating the appellant trust as an AOP the Respondent officer ought to have given credit to the accumulation of income, application and expenditure incurred by the appellant.

8. The ld.AR appearing for the assessee did not press all the grounds except Alternate Ground No.H. In Alternate Ground No. H, the assessee prayed that, without prejudice to its primary claim for exemption u/s.11 of the Act, the assessee-trust may alternatively be assessed in the status of an Association of Persons ("AOP") and the AO be directed to allow deduction of the corresponding expenditure incurred wholly and exclusively for the purpose of carrying on the activities of the trust, while computing the total income for the Assessment Year 2019-20. Further, the ld.AR relied on the decision of this Tribunal in assessee's own case in ITA No.3266/Chny/2025 dated 29.05.2026 for the A.Y. 2018-19, in a similar set of facts, wherein the Tribunal has restored the issue to JAO to verify and allow the expenditure in accordance with law. In view of the above arguments the ld.AR prayed for considering the appeal and allow the grounds of appeal of the assessee.

9. Per contra, the ld.DR did not controvert the facts, in the event the assessee is not held to be eligible for exemption u/s.11 of the Act for the impugned assessment year, the income of the assessee may be computed by treating the assessee as an Association of Persons ("AOP") and only the net income, after allowing deduction of the eligible expenditure incurred wholly and exclusively for the purposes of its activities, may be brought to tax in accordance with law.

10. We have heard the rival submissions perused the material available on record and gone through the orders of the authorities. We have also carefully considered the orders of the lower authorities and the decision of the Co-ordinate Bench of this Tribunal in the assessee's own case in ITA No.3266/Chny/2025 dated 29.05.2026 for A.Y. 2018-19, relied upon by the ld.AR.

11. At the outset, we note that the assessee has raised several grounds of appeal. However, during the course of hearing, the ld.AR submitted that all the grounds except Alternate Ground No.H are not pressed. Accordingly, the other grounds are dismissed as not pressed. The effective issue for our consideration is whether, in the event the assessee is not entitled to exemption u/s.11 of the Act for the impugned assessment year, the income of the assessee is required to be computed by treating the assessee as an AOP after allowing the expenditure/application incurred for carrying on its educational activities.

12. The undisputed facts are that the assessee is an educational trust running Victoria Matriculation School and has been regularly filing its returns of income in Form ITR-7. For the relevant assessment year, the assessee had claimed exemption u/s.11 of the Act. The return was processed u/s.143(1) and a consequential demand was raised, inter alia, on account of the

expenditure/application and accumulation claimed by the assessee not being given effect to while processing the return.

13. The assessee's primary claim relates to its eligibility for exemption u/s.11 of the Act. However, without prejudice to the said claim, the assessee has raised an alternate plea that, if the benefit of exemption u/s.11 of the Act is not available, the assessee ought not to be assessed on the gross receipts. According to the assessee, the expenditure actually incurred wholly and exclusively for carrying on its educational activities has to be considered and only the resultant/net income, if any, can be brought to tax.

14. We find considerable force in the alternate contention of the assessee. The fact that the assessee may not be entitled to exemption u/s.11 of the Act for the relevant assessment year does not, by itself, lead to the conclusion that the entire gross receipts of the educational institution are liable to be assessed as income. Where the assessee is assessed in the status of an AOP/BOI, the income has to be computed in accordance with the normal provisions of the Act, after considering the expenditure which is otherwise allowable under the provisions of the Act and which has been incurred for carrying on the activities of the assessee.

15. In this regard, we find that an identical issue had come up for consideration before the Co-ordinate Bench of this Tribunal in the assessee's own case in ITA No.3266/Chny/2025 dated 29.05.2026 for A.Y. 2018-19. The Tribunal, considering the similar factual and legal position, restored the issue to the file of the JAO with a direction to verify the expenditure incurred by the assessee and allow the same in accordance with law while determining the taxable income. The said decision is directly applicable to the issue presently before us, particularly when there is no material brought on record by the Revenue to demonstrate any distinguishing feature warranting a different view for the year under consideration.

16. We also find that the ld.DR, during the course of hearing, fairly submitted that, in the event the assessee is ultimately held not eligible for exemption u/s.11 of the Act, the income may be computed by treating the assessee as an AOP and only the net income, after allowing eligible expenditure incurred wholly and exclusively for the purposes of its activities, may be brought to tax in accordance with law. Thus, even from the Revenue's submission, there is no dispute with the fundamental proposition that the taxable income cannot be determined without examining the expenditure claimed by the assessee.

17. In our considered view, the issue requires factual verification by the AO. The assessee is required to establish, with supporting documentary evidence, the nature of expenditure incurred, its nexus with the educational activities carried on by the assessee and its allowability under the relevant provisions of the Act. The AO shall also examine the books of account and other supporting documents, wherever necessary, and determine the income in accordance with law. At the same time, expenditure which is not allowable under the Act or which is not proved to have been incurred for the purposes of the assessee's activities shall not be allowed merely on the basis of the assessee's claim.

18. We make it clear that our present adjudication is confined to the alternate ground pressed before us. We are not adjudicating upon the assessee's primary claim for exemption u/s.11 of the Act, since the same has not been pressed before us. The AO shall, therefore, proceed in accordance with law while giving effect to this order and shall not treat the gross receipts of the assessee as its taxable income without first determining the allowable expenditure and the resultant income in accordance with the provisions of the Act.

19. Further, it is trite law that even where the assessee-trust is denied the benefit of exemption under section 11 of the Act and is consequently assessed in the status of an Association of Persons (AOP), the entire gross receipts of

the assessee cannot, for that reason alone, be treated as its taxable income. Once the assessee is brought to tax under the normal provisions of the Act as an AOP, what is liable to be assessed is the real or net income chargeable to tax, computed after allowing such expenditure as is incurred wholly and exclusively for earning the income or for carrying on the activities giving rise to such receipts, subject, of course, to the admissibility of such expenditure under the applicable provisions of the Act. The denial or non-availability of exemption under sections 11 and 12 of the Act merely results in the income being computed under the normal provisions of the Act; it does not authorise the Assessing Officer to treat the gross receipts themselves as income without determining the corresponding expenditure legitimately incurred in earning such receipts.

20. Further, the fact that the assessee's audit report in Form 10B was filed belatedly or that there was an issue concerning registration u/s.12AA of the Act, as referred to by the lower authorities, does not dispense with the requirement of computing the taxable income correctly under the normal provisions of the Act, once the assessee is assessed in the status of an AOP. The alternate claim is independent of the assessee's claim for exemption u/s.11 and is required to be examined on its own merits. Respectfully following the decision of the Co-ordinate Bench of this Tribunal in the assessee's own case in ITA No.3266/Chny/2025 dated 29.05.2026 for A.Y. 2018-19, and having regard to the fair concession/submission of the ld.DR, we deem it appropriate to restore the matter to the file of the Jurisdictional Assessing Officer(JAO) for the limited purpose of examining the alternate claim of the assessee. Accordingly, the JAO is directed to verify the expenditure incurred by the assessee in connection with carrying on its educational activities and allow such expenditure as is found to be legally admissible under the provisions of the Act. Thereafter, the JAO shall determine the taxable income of the assessee in accordance with law, after giving due opportunity of being heard to the assessee. Needless to state, the assessee shall furnish all the necessary details and supporting evidences

before the JAO. Hence, the Alternate Ground No.H is allowed for statistical purposes in the above terms, while the remaining grounds, having been not pressed, are dismissed as not pressed.

21. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 05th October, 2026 at Chennai.

Sd/-	Sd/-
(मनु कुमार गिरि)	(एस. आर. रघुनाथा)
(MANU KUMAR GIRI)	**(S. R. RAGHUNATHA)**
न्यायिक सदस्य/Judicial Member	लेखासदस्य/Accountant Member

चेन्नई/Chennai,
दिनांक/Dated, the 05th October, 2026
**Devadas*

आदेश की प्रतिलिपि अग्रेषित/Copy to:
1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3.आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF