# आयकरअपीलीयअधिकरण,इंदौरन्यायपीठ,इंदौर
## IN THE INCOME TAX APPELLATE TRIBUNAL
## INDORE BENCH, INDORE

**BEFORE SHRI PARESH M. JOSHI, JUDICIAL MEMBER**
**AND**
**SHRI ARVIND SONI, ACCOUNTANT MEMBER**
**ITA No. 438/Ind/2025**
**Assessment Year-2021-22**

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| Utkrishta Shiksha Samaj Samiti<br>403, Priyal Apartment<br>Lalaram Nagar Indore<br>**(PAN: AFGPJ7621F)** | **बनाम/**<br>Vs. | National Faceless Assessment Centre |
| (Revenue/Appellant) | | (Assessee/Respondent) |

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| Assessee by | Sh. Chirayu Sodani, CA |
| Revenue by | Sh. Anup Singh, SR DR |
| Date of Hearing | 14.10.2026 |
| Date of Pronouncement | 22.10.2026 |

**Per Arvind Soni, AM:**

**1.** This is an Appeal filed by the Assessee under section 253 of the Income Tax Act 1961, [ herein after referred to as the Act for the sake of brevity] before this tribunal as & by way of a second Appeal. The Assessee is aggrieved by the order dated 05.02.2024 passed by the Ld. CIT(A) U/S 250 of the Act, which is herein after referred to as the **"Impugned Order".**

**2.** The assessee is a society which filed its return of income on 31.03.2022 under section 139(1) of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), declaring nil total income after reporting a loss of Rs. 4,70,655/-.

**3.** The case of the assessee was selected for compulsory scrutiny under the criteria relating to cases where registration or approval under various provisions of the Act, including sections 12A, 35(1)(ii)/(iia)/(iii) and 10(23C), had either not been granted or had been cancelled or withdrawn by the competent authority, but the assessee continued to claim exemption or deduction in its return of income. During the course of assessment proceedings, the assessee failed to comply with the notices issued by the learned Assessing Officer (AO). Consequently, a show-cause notice dated 07.12.2022 was issued under section 144 of the Act, requiring the assessee to furnish its explanation on or before 10.12.2022. However, no response was received from the assessee. In the absence of compliance, the learned AO completed the assessment under section 144 read with section 144B of the Act vide order dated 22.12.2022, determining the total income at Rs. 86,17,752/- as against the returned loss of Rs. 4,70,655/-, after making an addition of Rs. 90,88,407/-.

**4.** Aggrieved by the assessment order, the assessee preferred an appeal before the learned Commissioner of Income-tax (Appeals) [CIT(A)]. The said appeal was filed with a delay of four days. During the appellate proceedings, the assessee failed to comply

with the notices issued by the learned CIT(A). Consequently, the learned CIT(A), vide order dated 06.02.2024, dismissed the appeal on account of non-compliance by the assessee.

**5.** Being aggrieved by the aforesaid appellate order, the assessee has preferred the present appeal before the Tribunal on 13.05.2025, accompanied by an application seeking condonation of delay on the following ground of appeal: -

> *1. On the facts and circumstances of the case and applicable law. Ld. CIT(A) erred in sustaining the assessment order passed by Ld. AO u/s 144 which is contrary to the material on records and provisions of the Act, unjust and bad in law.*
>
> *2. On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in sustaining the addition of Rs. 90,88,407 made on estimation basis*
>
> *3. On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in sustaining the addition of Rs. 90,88,407 made on estimation basis without providing reasonable opportunity of being heard*
>
> *4. On the facts and circumstances of the case and applicable law and without prejudice to the above grounds of appeal, both Ld. AO and Ld. CIT(A) erred in not granting the relief u/s 10(23C)(iiiad) more particularly when the assessee exists solely for educational purposes and not for profit and the aggregate annual receipts of the assessee are less than 1 crores*

**6.** At the outset, we observe that the present appeal has been filed belatedly. As stated in the application, there is a delay of 378 days in filing the appeal before the Tribunal. In support of the application seeking condonation of delay, the assessee has filed an affidavit dated 21.03.2025, explaining the circumstances

which resulted in the delayed filing of the appeal. It has been submitted that the newly elected President of the assessee society assumed office on 30.07.2024 and thereafter took the initiative to appoint a tax consultant for examining and attending to the pending income-tax matters of the society.

**7.** It has further been submitted that during the course of examining the pending tax proceedings, the newly elected management came to know about the appellate order dated 06.02.2024 passed by the learned CIT(A). Thereafter, the management initiated the process of obtaining the relevant records, seeking professional advice and preparing the appeal, which was eventually filed before the Tribunal on 13.05.2025. The assessee has submitted that the delay was neither intentional nor deliberate and has requested that the same be condoned in the interest of substantial justice.

**8.** Per contra, the learned Departmental Representative (DR) strongly opposed the application seeking condonation of delay. The learned DR submitted that the conduct of the assessee throughout the assessment as well as the first appellate proceedings clearly demonstrates continuous non-compliance with the statutory notices issued by the respective authorities. It was further submitted that the assessee failed to participate in the assessment proceedings despite being afforded opportunities by the learned AO. Similarly, the assessee did not appear or

furnish any submissions before the learned CIT(A), resulting in the dismissal of its appeal.

**9.** The learned DR contended that a mere change in the management of the society or subsequent appointment of a consultant cannot, by itself, constitute sufficient cause for condonation of an inordinate delay in filing the appeal. In support of these contentions, the learned DR relied upon the orders passed by the lower authorities and the judicial decisions furnished before the Bench on 13.10.2026, opposing the condonation of delay.

**10.** We have heard the rival submissions of the learned representatives of both parties and carefully perused the material available on record, including the application for condonation of delay, the affidavit dated 21.03.2025 filed by the assessee, the orders of the authorities below and the judicial precedents relied upon by the learned DR. The preliminary issue arising for our consideration is whether the assessee has demonstrated sufficient cause for not presenting the appeal within the prescribed period of limitation, as contemplated under section 253(5) of the Act.

**11.** We observe that the assessee society remained non-compliant during the assessment proceedings as well as the proceedings before the learned CIT(A). The learned AO completed

the assessment under section 144 read with section 144B of the Act, and the learned CIT(A) dismissed the appeal on account of non-compliance. We further observe that the assessee has attributed the delay in filing the present appeal to the change in the management of the society. As stated in the affidavit, the newly elected President assumed office on 30.07.2024 and thereafter initiated steps to appoint a consultant and examine the pending income-tax matters of the society. It is pertinent to note that the explanation furnished by the assessee is required to be examined in the context of the circumstances prevailing during the relevant period. Although the earlier non-compliance on the part of the assessee cannot be overlooked, the same, by itself, does not conclusively determine whether sufficient cause existed for the delay in filing the present appeal.

**12.** We are conscious of the settled legal position that the expression "sufficient cause" employed in the provisions relating to condonation of delay must receive a construction which advances substantial justice, provided the explanation offered is bona fide and does not disclose deliberate inaction, negligence or lack of bona fides. In the present case, the assessee has placed on record an affidavit explaining the change in management and the subsequent steps stated to have been taken for pursuing the pending appellate proceedings. Having regard to the explanation furnished, and subject to its acceptance as bona fide on examination of the record, we are inclined to take a liberal view in the matter of condonation of delay.

**13.** Having considered the totality of the circumstances, the explanation furnished by the assessee and the interest of substantial justice, we are of the considered view that the delay in filing the appeal deserves to be condoned, provided the period of delay and the explanation covering such period stand verified from the appellate record. Accordingly, upon such verification, the delay in filing the present appeal is condoned, and the appeal is admitted for adjudication.

**14.** Coming to the merits of the appeal, we observe that the learned AO completed the assessment under section 144 read with section 144B of the Act, determining the total income at Rs. 86,17,752/-, whereas the assessee had declared a loss of Rs. 4,70,655/-.

**15.** We further observe that the learned CIT(A) dismissed the appeal primarily on account of non-compliance by the assessee. Thus, the issues arising from the additions made by the learned AO have not been examined and adjudicated on merits by the learned CIT(A). It is pertinent to mention that section 250(6) of the Act requires the order of the learned CIT(A) to state the points for determination, the decision thereon and the reasons for such decision. Therefore, even in cases where the appellant fails to appear, the learned CIT(A) is required to dispose of the appeal in accordance with the statutory provisions after considering the material available on record.

**16.** We also take note of the fact that the dispute concerning the assessee's registration under section 12AB of the Act was the subject matter of separate appellate proceedings before the Tribunal. In those proceedings, vide order ITA No:- 437/Ind/2026 dated 10.08.2026, the Tribunal set aside the matter and restored it to the file of the learned Commissioner of Income-tax (Exemptions) [CIT(E)] for reconsideration. The aforesaid development is relevant because the assessment proceedings in the present appeal originated from the issue concerning the assessee's entitlement to exemption under the Act. However, we clarify that the order of the Tribunal dated 10.08.2026 does not, by itself, establish the assessee's entitlement to exemption, and the same shall remain subject to the outcome of the proceedings before the learned CIT(E) and the applicable statutory provisions.

**17.** We further observe that the Tribunal, vide its separate order dated 10.08.2026, has restored the matter relating to registration under section 12AB of the Act to the file of the learned CIT(E). The outcome of those proceedings may have a bearing on the assessee's claim for exemption, subject to the applicable provisions of law and the relevant assessment year. Considering the facts and circumstances of the case, and particularly the fact that the learned CIT(A) has not adjudicated the additions on merits**,** we deem it appropriate, in the interest of justice, to set aside the impugned appellate order and restore the matter to the file of the learned CIT(A) for fresh adjudication in accordance with law.

**18.** The learned CIT(A) shall examine the grounds raised by the assessee, the material available on record and the effect, if any, of the proceedings relating to registration under section 12AB of the Act. The learned CIT(A) shall afford reasonable opportunity of being heard to the assessee and thereafter pass a reasoned and speaking order in accordance with law. We further direct the assessee to cooperate with the appellate proceedings and comply with the notices issued by the learned CIT(A), without seeking unnecessary adjournments. We make it clear that we have not expressed any opinion on the merits of the additions made by the learned AO or on the eligibility of the assessee for exemption under the Act.

**19.** In view of the foregoing discussion, the delay in filing the appeal is condoned, subject to verification as indicated above. **The impugned order passed by the learned CIT(A) dated 06.02.2024 is set aside, and the matter is restored to the file of the learned CIT(A) for fresh adjudication on merits in accordance with law, after providing reasonable opportunity of being heard to the assessee.**

**20.** In the result, **the appeal filed by the assessee is allowed for statistical purposes.**

**Pronounced in open court on 22.10.2026.**

Sd/-
**(Paresh M. Joshi)**
**Judicial Member**

Sd/-
**(Arvind Soni)**
**Accountant Member**

**Indore**

दिनांक/Dated : 22 /10/2026

Copies to:
(1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore