VERENDRA KALRA & CO LLP
CHARTERED ACCOUNTANTS

Communiqué

Direct Tax

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High Court Rulings

Where assessee-trust filed audit report in Form 10B with a one-day delay during COVID-19, application for condonation on account of genuine hardship was condoned.

Facts

The ld. counsel of the assessee submits that the audit report in Form 10B was filed by the petitioner on 16-01-21 with a delay of one day and return of income for said year was filed on 13-02-21. He submitted that the delay was occasioned on account of the COVID -19 pandemic. Referring to the impugned order, he submits that the petitioner's request for condonation of delay was rejected by relying on Circular No.16/2024. The ld. counsel placed reliance on the orders passed in the case of John and Marie Almeida Educational Trust v. CIT(Exemptions) [W.P.No.15587 and 16818 of 2025, dated 03-07-26], and stated that this Court held that Section 119(2)(b) does not prescribe a time limit within which an application for condonation should be made.

Ruling

The assessee is a Charitable Trust for which the audit report was filed with a delay of one day during the COVID-19 period. The only ground on which the application was rejected was the time limit prescribed in Circular No.16/2024. HC affirmed that the statute does not prescribe a time limit. The preliminary consideration under the statute is whether genuine hardship would be caused to the assessee. Since the right to avail of exemptions is contingent on the filing of return of income along with audit report in Form 10B, there is no doubt that the assessee would suffer genuine hardship for the delay of one day in filing of the audit report. Considering all these aspects, HC is satisfied that the delay is liable to be condoned. Consequently, the impugned order passed by the AO was set aside and the respondents are directed to proceed further based on this order.

Source : High Court, Madras in the case of Mahavatar Babaji Charitable Trust vs CIT (Exemptions) vide [2026] 189 taxmann.com 739 (Madras) on August 13, 2026.

Assessee received advance towards sale of land in FY 2006-07 and disclosed capital gain in AY 2016-17, addition of such advance under section 68 was impermissible since amount was received in an earlier year.

Facts

A sale deed was executed by the power of attorney holder of the assessee in FY 2013-14, which came to his knowledge in FY 2015-16 because his power of attorney holder did not inform the assessee about the factum of execution of the sale deed. The assessee, therefore, reflected the transaction of his return of income and showed capital gain, but since there was a capital loss, the long-term capital gain arising on the land was set off. During assessment proceedings, AO took a view that the assessee had adopted a device to show the aforesaid gain in the AY 2016-17, being the year in which he had suffered a capital loss of Rs. 16 crores to get a set-off of this capital gain, which had accrued on account of sale of the land and the transaction qua which he had entered into an agreement to sell in the FY 2006-07 and treated the advance of Rs. 10 crores as unexplained advance and thus he added such amount in the FY 2016-17 u/s 68. The said addition was disallowed by the Appellate Authority and said view has been affirmed by the Tribunal by holding that the AO was not justified in making addition in the year under consideration, as said amount was received in the FY 2006-07.

Ruling

HC is of the view that maybe the assessee had adopted a device to avoid or to circuitously avail set-off of capital loss against the capital gain, which he had earned two years earlier. But for dealing with such situation or case, there were other and better modes or measures available with the AO. For the purported avoidance or colorable device, taking recourse to Section 68, within the statutory framework was not permissible, more particularly, when the assessee had admittedly received the amount of Rs. 10 crores way back in the FY 2006-07. Accordingly, the amount of Rs. 10 crores were received by the assessee in the FY 2006-07 and, therefore, HC stated that adding the amount in the FY 2016-17 is against anybody's comprehension. Such addition cannot be sustained.

Source : High Court, Delhi in the case of PCIT vs J D Exim (P.) Ltd. vide [2026] 189 taxmann.com 801 (Delhi) on August 18, 2026.

ITAT Rulings

Denial of benefit under section 115BAA was not justified where assessee company failed to file Form 10-IC and return on due date for opting section 115BAA due to technical glitch, despite genuine attempts to comply; consequential relief allowed.

Facts

The assessee is a private limited company who filed its return of income on 19-11-22 whereas the due date of filing of return u/s 139(1) 07-11-22. Since Form 10-IC and subsequent ITR were filed after the due date, the CPC denied the claim of the assessee to be taxed u/s 115BBA. The assessee, against the denial of claim of assessment u/s 115BAA, moved rectification application on 20-04-24 stating that the income tax at 30% has been levied by CPC while processing the return, as against the rate applicable for domestic companies having turnover of less than 400 crores, as in the present case, at 25%. The assessee explained that it tried to file Form 10-IC on 07-11-22 in order to avail the lower tax rate as prescribed u/s 115BAA before filing of the ITR within the due date but somehow could not file due to technical glitch, whether with the income tax portal or with the computer system of the assessee. This action of the assessee trying to file Form 10-IC on 07-11-22 was proved by the form creation and saved date reflecting on the IT portal. Subsequently, after filing Form 10-IC, the ITR was filed claiming the tax rate 25% u/s 115BAA. This claim was denied by the CPC. The ld. counsel of the assessee now before ITAT contended that CBDT vide Circular No. 6/2022 dated 17-03-22 had condoned filing of form 10-IC for preceding assessment year. Taking help of this Circular, the assessee stated that since this was the first year of business of the assessee, it was not able to ascertain the interpretation of provisions of Section 115BAA but, the assessee has tried its best to file Form 10-IC on before the due date, information which is available on record. The ld. counsel of the assessee before the bench has contended that this is a case of genuine hardship and due relief should be provided.

Ruling

ITAT is of the view that the assessee has made all efforts to file Form 10-IC and that evidence is available on record. In view of the CBDT Circular No.6/2022 dated 17-03-22 which is for the preceding year, we apply in this year also for the reason that the assessee has genuinely tried to file Form 10-IC on the due date, which was not done due to technical glitch, whether with the income tax portal or with the computer system of the assessee. This action of the assessee trying to file Form 10-IC has been proved by the ld. counsel of the assessee by showing the date on the income tax portal i.e., 07-11-22. In view of these facts, ITAT allowed the claim of the assessee and directed the AO to assess the assessee under Section 115BBA and allow consequential relief.

Source : ITAT, Delhi in the case of Mysim Therapeutics (P.) Ltd. vs ITO vide [2026] 189 taxmann.com 494 (Delhi- Trib.) on August 11, 2026.

Registration under section 80G could not be denied solely since only a small proportion of donation was spent on religious activities within permitted limits; CIT(E) was required to grant approval under section 80G.

Facts

The assessee filed an application for registration u/s 80G (ii) on 29-09-25. In Form 10AB filed, the ld. CIT(E) noticed that the assessee is engaged in religious-cum-charitable activities. It is further observed that religious is one of the principal objects of trust. In this regard, ld. CIT(E) reproduced the receipts and payment account for the year end on 31-03-25 and 31-03-24. She observed that the object of the assessee is not confined exclusively to charitable purposes but expressly includes religious objects and the activities carried out are also formed in furtherance of such religious objects. With the above observations, she has analyzed the provisions of section 80G(5) and Explanation-(3) to the section 80G, came to the conclusion that the trust cannot said to be established for charitable purposes of which includes any purposes/object, the whole or substantial, the whole of which is of the religious nature. Ld. CIT(E) rejected the application filed by the assessee for registration u/s 80G(5)(ii) for the reason that it is engaged in religious activities which cannot be considered to be for charitable purposes and she has heavily relied on the decision of Hon'ble Supreme Court in the case of Upper Ganges Sugar Mills Ltd. v. CIT [1997] 93 Taxman 645/227 ITR 578 (SC). Aggrieved with the above order, the assessee is in appeal before ITAT.

Ruling

ITAT observed that the ld. CIT(E) granted registration u/s 12AB on 19-02-26 as the religious trust. Also observed that the assessee was granted registration u/s 12A and u/s 80G of the Act, since inception, i.e., 11-01-89 onwards. The reasons for rejecting the registration u/s 80G was that the trust was registered as a religious trust and it incurs substantial amount in spiritual and satsung expenses. After careful consideration, ITAT observed that the assessee has incurred expenditure towards spiritual knowledge and satsung expenses of Rs. 68.03 lakhs as on 31-03-25 and Rs. 76.07 lakhs as on 31-03-24. At the same time, ITAT observed that the assessee has spent an amount on food, cloth and Bhandara expenses, medicines and other administration expenses to the extent of Rs. 6.65 crores. ITAT also observed that the assessee has received substantial donations towards seva and towards corpus funds. It is also fact on record assessee is a religious trust and heavily collects and donations which were collected for not only spiritual knowledge and satsung arrangement, but it is also collected towards other charitable activities carried on by the assessee. On careful verification, we observed that the assessee has spent less than 5% of the total donation received by it towards spiritual knowledge and satsung expenses. This is within the norms provided by the amended provisions of section 80G Explanation (3). Further ITAT observed that once trust was granted registration u/s 12AB treating them as religious trust after analyzing the objects of the trust which are charitable in nature. In the view of ld. ITAT, the arranging and conducting meetings to spread the spiritual knowledge that itself cannot be branded as religious in nature which is being provided across the community. We observed that the courts have held that once registration is granted u/s12AB, registration u/s 80G cannot be denied based on same objects and it also records that unless and until it violates specific provisions contained u/s 12AB/80G. Therefore, in the considered view of the ld. Bench, the assessee cannot be denied registration u/s 80G merely based on the observations made by ld. CIT(E) which is not specific but rather high handedness. It is fact that the assessee was considered religious trust, it is expected to incur expenditure towards religious activities and once it is seen that its religious activities are carried on for common benefit of the community without extending any individual benefits to the trustee or to specific community. The conducting of satsung and related activities cannot be considered as religious activity unless and until, it is incurred towards a particular deity or such related activity. Further, provisions of section 80G itself allow up to 5 of the explanations towards religious activities. Therefore, ITAT is inclined to direct the ld. CIT(E) to grant registration u/s 80G as it fulfills conditions specified therein. The Grounds raised by the assessee were accordingly allowed.

Source : ITAT, Delhi Bench F in the case of Radha Swami Satsang Dinod vs CIT (Exemptions) vide [2026] 189 taxmann.com 481 (Delhi- Trib.) on August 12, 2026.

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