

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE “SMC-C” BENCH, BANGALORE**

**Before Shri George George K, Judicial Member**

ITA No.718/Bang/2020 : Asst.Year 2016-2017

M/s.KRS Education Rural Development Trust, No.800, 5 <sup>th</sup> Main, 7 <sup>th</sup> Cross, MC Layout, Vijayanagar Bangalore – 560 032. <b>PAN : AAATK5404G.</b>	v.	The Income Tax Officer (Exemption) Ward - 1 Bangalore.
(Appellant)		(Respondent)

Appellant by : Sri.Ravishankar, Advocate  
Respondent by : Sri.Ganesh R.Ghale, Standing Counsel

<b>Date of Hearing : 17.09.2021</b>	<b>Date of Pronouncement : 20.09.2021</b>
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**ORDER**

This appeal at the instance of the assessee is directed against the CIT(A)’s order dated 31.08.2020. The relevant assessment year is 2016-2017.

2. There is a delay of 24 days in filing this appeal. The assessee has filed a petition for condonation of delay along with an Affidavit of the Managing Partner. I have examined the reasons stated for belated filing of this appeal and I am of the view that no laches can be attributed to the assessee. There is sufficient cause for filing this appeal belatedly. Therefore, I condone the delay of 24 days in filing this appeal and proceeded to dispose of the appeal on merits.

3. The brief facts of the case are as follows:

The assessee is a registered charitable trust. For the assessment year 2016-2017, the return of income was filed on 08.11.2017 declaring NIL income. The assessment was selected for scrutiny by issuance of statutory notice u/s 143(2) of the I.T.Act. During the course of assessment proceedings, the Assessing Officer noted that the assessee has not filed Form No.10 for accumulation of funds while filing the return of income. Accordingly, the Assessing Officer brought a sum of Rs.15,15,080 to tax vide order dated 25.12.2018.

4. Aggrieved, the assessee filed an appeal to the first appellate authority. It was contended before the first appellate authority that due to inadvertence and oversight the assessee failed to file Form No.10 while filing the return of income. It was submitted that audit report in Form No.10B for the impugned assessment year was filed and was under the impression that the assessee was not obliged to file separate Form No.10 before the Assessing Officer. The assessee after obtaining professional advice, filed Form No.10 on 22.01.2009 electronically. The CIT(A), however, rejected the contentions of the assessee and held that Form No.10 for accumulation of income ought to have been filed by the assessee along with the return of income. It was further held by the CIT(A) that he does not have the power to condone the delay in filing Form No.10. It was observed by the CIT(A) that it was for the Administrative Commissioner to condone the delay in filing Form No.10 for accumulation of income.

5. Aggrieved by the order of the CIT(A), the assessee has filed this appeal before the Tribunal. The learned AR has filed a paper book enclosing therein the trust deed dated 03.08.1991, the return of income and the financial statements, Form No.10 filed electronically, Board Circular No.273 dated 03.06.1980 and CBDT Circular No.6/2020 dated 19.02.2020. The learned AR has also relied on the order of the Tribunal in the case of Hira Foundation Trust v. ITO (Exemptions) in ITA No.406/Bang/2020 (order dated 01.12.2020). The learned AR submitted that the assessee has filed an application for condonation of delay before CIT(Exemption) and the same is pending. A copy of the application filed before CIT(Exemption) is placed on record.

6. The learned Standing Counsel relied on the order of the Bangalore Bench of the Tribunal in the case of M/s.Navodaya Education Trust v. DCIT in ITA No.49/Bang/2021 (order dated 15.07.2021).

7. I have heard rival submissions and perused the material on record. As per Board Circular No.273 dated 03.06.1980, the assessee can file application for condonation of delay for submission of Form No.10 by specifying certain conditions. The assessee has filed such an application before the CIT (Exemption) and the same is pending. The copy of the application for condonation of delay in filing Form No.10 is placed on record. In such circumstances, I deem it fit to restore the issue to the files of the A.O. The A.O. is directed to take a decision in the matter after the final outcome of the

decision rendered in assessee's condonation petition for belated filing of Form No.10. It is ordered accordingly.

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

Order pronounced on this 20<sup>th</sup> day of September, 2021.

**Sd/-**  
**(George George K)**  
**JUDICIAL MEMBER**

Bangalore; Dated : 20<sup>th</sup> September, 2021.  
Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-14, Bangalore
4. The CIT (Exemption), Bangalore.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore