

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E': NEW DELHI**

**BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

**ITA No.3462/DEL/2025
(Assessment Year: 2023-24)**

National Foundation for Corporate Governance, vs. ITO, Ward 2 (4),
C/o Confederation of Indian Industry, Delhi.
The Mantosh Sondhi Centre,
23, Institutional Area, Lodhi Road,
New Delhi – 110 003.

(PAN : AAATN7649E)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Ms. Ekta Mumari, Advocate
REVENUE BY : Shri Dheeraj Kumar Jaiswal, Sr. DR

Date of Hearing : 30.09.2025
Date of Order : 22.12.2025

ORDER

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. The assessee has filed appeal against the order of the learned Addl / JCIT (A)–7, Kolkata [“Ld. JCIT(A)”, for short] dated 01.04.2025 for the Assessment Year 2023-24 raising following grounds of appeal :-

- “1. That the Ld. CIT (A) has erred in disposing the appeal against the principles of natural justice.
2. That the Ld. CIT (A) has erred in law by passing a non-speaking cryptic order against the principles of natural justice.

3. That the Ld. Assessing Officer and Ld. CIT (A) have erred in law and on facts by not considering the submissions made and documents produced by the Appellant.
 4. That the Ld. CIT (A) has erred in law and on facts in confirming addition of Rs.37,99,090/- without considering the settled legal position that the law as it stands on the first day of April must apply to the assessment for that year.
 5. That the Ld. CIT (A) has erred in interpreting the applicability of the amended provisions under section 11(3) with effect from FY 2022-23.”
2. Brief facts of the case are, assessee is a Trust set up by Ministry of Corporate Affairs in partnership with Confederation of Indian Industry, Institute of Company Secretaries of India and Institute of Chartered Accountants of India to promote good corporate governance practices both at the level of individual corporate and industry as a whole. The assessee is duly registered Trust under section 12A and 80G of the Income-tax Act, 1961 (for short ‘the Act’) and continuous to claim exemption u/s 11 since inception.
3. Assessee filed its return of income for the impugned year under consideration which was processed u/s 143(1) of the Act by the CPC. The CPC observed that assessee had accumulated funds exceeding 15% of the total receipt in the year relevant to Assessment Year 2017-18 but failed to utilised it for charitable activities within next five years. While

processing the return u/s 143(1), CPC disallowed exemption u/s 11 of the Act so much of unutilized amount.

4. Aggrieved with the above order, assessee preferred an appeal before the ld. JCIT(A)-7, Kolkata. Before the ld. JCIT (A), assessee has filed detailed submissions with the argument that the provisions of section 11(2)(a) was amended by the Finance Act, 2022 w.e.f 01.04.2023. It was prayed before the ld. JCIT (A) that amended provision shall apply for the AY 2024-25. After considering the detailed submissions of the assessee, ld. JCIT (A) observed that assessee claimed the requirement to utilize the accumulated funds by 5th year was introduced by an amendment to be applicable w.e.f. previous AY 2024-25 and not the assessment year 2023-24, according to him, which is not correct. With the above observation, he proceeded to sustain the additions made by the Assessing Officer with the observation that the amendment was w.e.f. 01.04.2023 means AY 2023-24. Therefore, assessee had one full year available to it for utilization of the accumulated funds in the year relevant to AY 2017-18. Accordingly, he dismissed the appeal filed by the assessee.
5. Aggrieved with the above order, assessee is in appeal before us.
6. At the time of hearing, ld. AR of the assessee brought to our notice the relevant facts on record and also made the similar submissions which

were made before the first appellate authority and submitted that the issue under consideration is covered in favour of the assessee by the decision of ITAT, Ahmedabad in the case of Sarangpur Talia's Pole Punch Trust vs. ITO in ITA No.929/Ahd/2025 vide order dated 16.09.2025 and also the decision of ITAT, Mumbai in the case of Archdiocese of Bombay vs. DCIT(E) in ITA No.3375/Mum/2025 vide order dated 29.08.2025.

7. On the other hand, Id. DR of the Revenue relied on the findings of the Id. JCIT (A).
8. Considered the rival submissions and material placed on record. We observed that the amendment brought in section 11(2) and 11(3) w.e.f. 01.04.2022 with a clear direction to utilize the accumulated funds within five years of such accumulation. However, prior to the amendment through Finance Act, 2022, the assessee was eligible to utilize the funds at the end of the 6th year. We observed that Id. JCIT (A) has rejected the plea of the assessee and interpreted the amendment in Finance Act, 2022 w.e.f. 01.04.2023 i.e. from AY 2023-24 onwards whereas this issue is already dealt with by the coordinate Benches in the case of Sarangpur Talia's Pole Punch Trust (supra) wherein it was held as under :-

“6. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee. We are of the considered view that the present issue is directly covered in favour of the assessee by the Ahmedabad ITAT decision in the case of Meshri Mahajan Vanda vs. Income-tax Officer (Exemption) [2025] 178 taxmann.com 93 (Ahmedabad - Trib.)(02-09-2025] in which ITAT held where assessee trust accumulated income pertaining to financial years 2016-17, assessee had time window till 31-3-2023 by which it could utilize accumulated income. The amendment brought in by Finance Act, 2022, did not debar assessee from availing

said time window in respect of existing accumulations and amendment had to be read prospectively in respect of fresh accumulations for period pertaining to previous year starting from 1-4-2022 onwards. While passing the order, ITAT made the following observations:

7. We have heard the rival contentions and perused the material on record. We note that the present issue is directly covered in favour of the assessee in light of the Ahmedabad ITAT decision in the case of Shri Krishnanagar Vaishvsamaj (supra). It would be useful to reproduce the relevant extracts of the Ruling, for ready reference:

"7. We have considered the rival submissions. In the present case, the assessee had accumulated fund of Rs.4,60,000/- in the F.Y. 2016-17. As per provisions of Section 11(2) of the Act, a trust is required to apply 85 % of income during any previous year to charitable or religious purposes. However, if it is not able to apply 85% of its income during the previous year, it is allowed to accumulate such income for the period offive years. In fact, the time limit of accumulation was earlier ten years which was restricted to five years w.e.f. 01.04.2016. The provision of Section 11(3) of the Act stipulates that if the income so accumulated is not utilised within the prescribed period, it shall be subjected to tax at the end of such period. In this regard, it is relevant to reproduce the Section 11(3) of the Act at relevant point of time which is as under:-

- (3) Any income referred to in sub-section (2) which—
 - (a) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or
 - (b) ceases to remain invested or deposited in any of the forms or modes specified in subsection (5), or
 - (c) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of that sub-section 72[or in the year immediately following the expiry thereof]*,
 - (d) is credited or paid to any trust or institution registered under section 12AA 73[or section 12AB] or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10,
- 74[shall be deemed to be the income of such person of the previous year in which it is so applied or ceases to be so accumulated or set apart or ceases to remain so invested or deposited or credited or paid or, as the case may be, of the previous year immediately following the expiry of the period aforesaid].

72 Words "or in the year immediately following the expiry thereof" shall be omitt. by the Act No. 6 of2022, w.e.f. 1-4-2023.

7.1 As per the sub-clause (c) of Section 11(3), the accumulated amount shall be deemed to be the income of the assessee if it was not utilised within the period of five years as mentioned in Section 11(2)(a) of the Act, or "in the year immediately following the expiry thereof". Thus, the assessee had time limit of five years and one additional year to utilise the accumulated funds. Since the funds were accumulated in this case in the F. Y. 2016-17, the extended time period for utilisation of fund was till the end of the F.Y. 2022-23. In the present case, the assessee had utilised funds to the extent of Rs.2,32,073/- in the additional one-year period and accordingly claimed the deduction in the return for A. Y. 2023-24.

7.2 The CPC has disallowed the claim while processing the return for the reason that the additional one-year period for utilisation of funds was omitted vide Finance Act 2022 w.e.f. 01.04.2023. The contention of the assessee is that the amended provision would create an impossible and absurd situation as the assessee would be left with no time to utilise the funds accumulated in F. Y. 2016-17. The original five years' time period in this case had expired on 31.02.2022. As per the unamended provisions, the assessee had additional one year to utilise the funds. The removal of additional one-year period would create an impossible or absurd situation as the assessee will be left with no time to utilise the accumulated funds. The doctrine of impossibility (*lex non cogit ad impossibilia*) would be applicable in the situation when assessee would be left with no time to utilise the accumulated funds. The amendment cannot be interpreted in such a way that it makes impossible for the assessee to utilise the accumulated funds within the time period as originally provided under the provisions of the Act. It is a settled position that legal rules should not be applied rigidly or literally, when doing so would lead to an unfair or impossible outcome. Rather, the legal obligations should be interpreted with a degree of practicality and reasonableness, taking into account the specific circumstances of the case. The law does not require anyone to perform an act that is genuinely impossible to achieve. While interpreting the amendment, the legal obligations have to be interpreted with a degree of practicality and reasonableness, taking into account the specific circumstances of the case. Considering this aspect, the Ld. CIT(A) was not correct in rejecting the appeal of the assessee. Since the assessee had utilised the funds within the time period as originally provided under the Act, the adjustment made while processing the return is deleted.

8. In the result, appeal of the assessee is allowed.

8. In the case of *Dadar Digamber Jain Mumukshu Mandal v. CIT (Exemption)* [2025] 176 taxmann.com 661 (Mumbai - Trib.) [15-07-2025], the assessee trust filed its return of income for assessment year 2023-24, claiming exemption under section 11 of the Act. During relevant year, assessee utilized accumulated income of Rs. 35.66 lakhs and Rs. 40 lakhs pertaining to financial years 2016-17 and 2017-18 respectively. The Assessing Officer noted that as per amended provisions of section 11(3)(c) of the Act, accumulation period was limited to five years and, thus, he brought said amount to tax as income of assessee. The ITAT held that amendment to

section 11(3)(c) by Finance Act, - 6- ITA No. 929/Ahd/2025 Sarangpur Talia's Pole Punch Trust vs. ITO(E) Asst.Year -2023-24 2022 with effect from 1-4-2023 which omitted extra period of one year following expiry of initial period of accumulation of five years is prospective in nature and, thus, same would be applicable only to fresh accumulations from assessment year 2023-24 onwards. Therefore, as far as accumulation relating to financial years 2016-17 and 2017-18 were concerned, assessee had time window till 31-3-2023 and 31-3-2024 respectively by which it had to utilize accumulated income and in that view of matter, amendment brought in by Finance Act, 2022 with effect from 1-4-2023, does not debar assessee from availing said time window in respect of existing accumulations and amendment has to be read prospectively in respect of fresh accumulations for period pertaining to previous year starting from 1-4-2022 onwards. Therefore, where assessee had accumulated income during financial years 2016-17 and 2017-18 and utilized same within period of six years, same could not be brought to tax in assessment year 2023-24 and, thus, addition made by Assessing Officer was to be deleted.

9. Further, in the case of Yashwantrao Chavan Maharashtra Open University v. CIT(E) [2025] 175 taxmann.com 988 (Pune - Trib.)/ITA No. 505/pun/2025 vide order dated 23.06.2025, the Pune ITAT while dealing with similar set of facts and issue for consideration, made the following observations:

"21. In light of the above discussion, we are of the considered opinion that since the assessee in the instant case has utilized the accumulated surplus funds in the year immediately following the prescribed period of 5 years i.e. before 31.03.2023 and the amendment to the provisions of section 11(3) are held to be prospective in nature, therefore, the Ld. Addl / JCIT(A) in our opinion is not justified in upholding the intimation of the CPC making adjustment of Rs.90,70,20,511/- u/s 11(3) as deemed income of the assessee which was accumulated in the financial year 2016-17 and when the provisions at the relevant time prescribed the utilization of the amount within a period of 5 years or in the year immediately following the prescribed period of 5 years. Even otherwise also we find merit in the argument of the Ld. Counsel for the assessee that the 5 year period ends on 31.03.2022 and therefore the unutilized amount could have been brought to tax in assessment year 2022-23 and not in assessment year 2023-24. In the light of the above discussion, we set aside the order of the Ld. Addl / JCIT(A) on this issue and direct the Assessing Officer/CPC to delete the adjustment. The grounds raised by the assessee are accordingly allowed.

22. In the result, the appeal filed by the assessee is allowed.

"7. Accordingly, in light of the assessee's facts and the aforesaid discussion and decisions reproduced above, we are of the considered view that there is merit in the contentions advanced by the assessee that as far as the accumulation relating to the period of F.Y. 2016-17 is concerned, the assessee had the time window till 31-03-2023 by which it could utilize accumulated income and in view of the matter, the amendment brought in by the Finance Act, 2022 does not debar the assessee from availing the said time window in respect of existing accumulations and the amendment would have to be read prospectively in respect of fresh accumulations for

the period pertaining to previous year starting from 1st April, 2022 onwards. Further, as far as the impugned assessment year is concerned, no addition can be made for accumulation of income pertaining to financial year 2016-17 as the assessee continues to be guided by the provisions as existed at the relevant point in time and the time window of six years as provided. The amendment made by the Finance Act, 2022 cannot curtail the said time window and has to be applied prospectively in respect of fresh accumulations.

8. In the result, the appeal filed by the assessee is allowed.”
9. Respectfully following the above decision, we are inclined to allow the plea raised by the assessee and accordingly, the grounds raised by the assessee are allowed.
10. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on this 22nd day of December, 2025.

Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 22.12.2025
TS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI