

GAHC010160642026



2026:GAU-AS:12507

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4222/2026

DIBRUGARH LIONS BRAHMAPUTRA FOUNDATION
A REGISTERED CHARITABLE TRUST/ INSTITUTION UNDER SECTION
12A/12AA OF THE INCOME TAX ACT, 1961, PAN AABTD4719Q, HAVING ITS
OFFICE AT LION CARE CENTRE, A.T. ROAD, NEAR INDIA CLUB,
DIBRUGARH, ASSAM-786001, AND REPRESENTED BY ITS CHAIRMAN SRI
SANJAY JAIN.

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY, DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW
DELHI.

2:TH PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX
NORTH EAST REGION
AAYKAR BHAWAN
CHRISTIAN BASTI
G.S. ROAD
KAMRUP M
GUWAHATI
ASSAM
781005

3:THE PRINCIPAL COMMISSIONER OF INCOME TAX

GUWAHATI
AAYKAR BHAWAN
CHRISTIAN BASTI
G.S. ROAD
KAMRUP M
GUWAHATI

ASSAM
781005.

4:THE PRINCIPAL COMMISSIONER OF INCOME TAX
SHILLONG
AAYAKAR BHAWAN
MAHATMA GANDHI ROAD
SHILLONG
MEGHALAYA-793001

5:THE INCOME TAX OFFICER
WARD 2 (EXEMPTION)
SHILLONG
AAYAKAR BHAWAN
MAHATMA GANDHI ROAD
SHILLONG
MEGHALAYA-793001.

6:THE COMMISSIONER OF INCOME TAX (EXEMPTION)
KOLKATA
INCOME TAX OFFICE
LOB
MIDDLETON ROAD
KOLKATA-700071.

7:CENTRALISED PROCESSING CENTRE
REPRESENTED BY THE DEPUTY COMMISSIONER OF INCOME TAX
CPC
BENGALURU-560500

Advocate for the Petitioner : MR. AMIT GOYAL, PRANJAL SARAOGI

Advocate for the Respondent : DY.S.G.I., MS P BORAH(C.G.C.)R1,SC, INCOME TAX

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

28.08.2026

Heard Mr. A. Goyel, learned counsel for the petitioner; Ms. P. Bora, learned Central Government Counsel [CGC] for the respondent no. 1; and Mr. S. Chetia, learned Senior Standing Counsel, Income Tax Department for the respondent nos. 2 to 7.

2. It is the case of the petitioner that it is a registered charitable trust/institution engaged in charitable activities and its activities include running of an eye hospital in the name of Lion K.K. Saharia Eye Hospital, Dibrugarh to provide free eye check-ups and cataract for underprivileged in and around Dibrugarh, Assam. It is stated that the petitioner trust is registered under Section 12A/12AA and Section 80G of the Income Tax [I.T.] Act, 1961, as amended.

3. The petitioner was served with an intimation under Section 143[1] of the I.T. Act on 25.03.2019 for the Assessment Year : 2017-2018 disallowing the exemption claimed by it under Section 11 of the I.T. Act and the respondent authorities had raised a demand of Rs. 57,27,614/- solely on the ground that the Audit Report in Form 10-B was not e-filed along with Income Tax Return [ITR] by the petitioner for the Financial Year : 2016-2017. The same demand has been reiterated in subsequent notices which were computer generated demand and recovery communication dated 22.01.2020, 26.08.2021, 30.08.2023 and 22.11.2024 whereby the petitioner was being called upon to make payment of the outstanding demand. In one of its Communications dated 22.11.2024, the respondent authorities had directed either to pay the outstanding demand or to file a rectification application.

4. It is the case of the petitioner that there was no reason for the petitioner not to attach the requisite Audit Report in Form 10-B and the omission, if any, appears to be on account of technical glitches in the Income Tax Department portal. It is stated that on being enquiry made, the petitioner was informed that the Income Tax Department could not find attachment of the Audit Report in Form 10-B along with the return e-filed by the petitioner for the Assessment Year : 2017-2018. Having learnt about the same, the petitioner furnished the Audit Report physically to the Income Tax authorities, notwithstanding that it was already submitted to the Department. It is contended that despite submission of the Audit Report the respondent authorities have been issuing demand notices without considering the Audit Report. Faced with such situation, the petitioner submitted a Rectification Application under Section 154 of the I.T. Act against the Intimation, Demand Notices, etc. passed under Section 143[1] for the Assessment Year : 2017-2018, as allowed by the Communication dated

22.11.2024, and the respondent authorities had acknowledged the receipt of the Rectification Application on 23.08.2025 by generating Rectification Acknowledgement no. 829929080230825.

5. When the writ petition was listed on 10.08.2026, the learned Senior Standing Counsel, Income Tax Department was asked to obtain instructions as regards the status of the Rectification Application filed by the petitioner, receipt of which was duly acknowledged on 23.08.2025. Today, Mr. Chetia, learned Senior Standing Counsel, Income Tax Department has submitted, on the basis of instructions he has received, that though the receipt of the Rectification Application on 23.08.2025 is an admitted position, but on verification of the records, it is learnt that the Rectification Application was submitted in the e-filing portal of Income Tax Business Activity [ITBA]. Due to some technical problems, the Rectification Application is not reflected in the ITBA yet. He has submitted that corrective measures are under process.

6. Section 154 of the I.T. Act has provided for rectification of mistake. As per sub-clause [b] of sub-section [2] of Section 154, the authority concerned can make such amendment for rectification in such mistake which has been brought to its notice by the assessee. As per sub-section [4] of Section 154, if an amendment is to be made then an order will be passed in writing by the concerned Income Tax authority concerned.

7. In this writ petition, the petitioner is challenging the legality and validity of demand notices and communications, whereby the petitioner has been asked to make the payment of outstanding amount of Rs. 57,27,614/- for the Assessment Year : 2017-18 on the ground that Audit Report in Form 10-B has not been e-filed alongwith the return of income for Assessment Year : 2017-2018, ignoring the fact that the petitioner is registered under Sections 12A/12AA and Section 80G of the I.T. Act and thereby, entitled to exemption under Section 11 of the I.T. Act. It is contended that the petitioner has been regularly filing its returns in accordance with law and since the petitioner is exempted under Section 11 of the I.T. Act, the returns filed by the petitioner were shown as nil and the Income Tax Department was also accepting the same regularly.

8. Mr. Goyel, learned counsel appearing for the petitioner and Mr. Chetia, learned Senior Standing Counsel, Income Tax Department have submitted that since the Rectification Application with Rectification Acknowledgement no. 829929080230825 is admittedly pending for consideration, this writ petition may not be kept pending and it can be disposed of with an observation that the competent authority shall take the said Rectification Application on board for consideration and thereafter, pass an Order as per Section 154[4] and other provisions of the I.T. Act on its own merits and in accordance with law.

9. Mr. Chetia has also submitted that to facilitate such consideration, the petitioner may be directed to file a hard copy of the Audit Report for the Assessment Year : 2017-2018 before the respondent no. 4 and the respondent no. 5 within fifteen days from today. In response, Mr. Goyel, learned counsel for the petitioner has submitted that the petitioner will submit a hard copy of the Audit Report for the Assessment Year : 2017-2018 before the respondent no. 4 and the respondent no. 5 within fifteen days from today.

10. In the above obtaining fact situation, more particularly, for the fact that the Rectification Application with Rectification Acknowledgement no. 829929080230825, filed on 23.08.2025, is yet to be disposed of, this Court is of the view that any adjudication on this writ petition, at this stage, would not be proper, when no order has been passed in the Rectification Application on merits. In such view of the matter, this writ petition is disposed of with the following directions :-

[i] The petitioner shall file a hard copy of the Audit Report in Form 10-B for the Assessment Year : 2017-2018, along with a hard copy of the Rectification Application dated 23.08.2025 before the respondent no. 4 and the respondent no. 5 within fifteen days from today.

[ii] On such submission, the respondent no. 4 and the respondent no. 5 shall duly acknowledge receipt of the hard copies of the Audit Report in Form 10-B for the Assessment Year : 2017-2018 and the Rectification Application.

[iii] After such submission and acknowledgement, the competent authority

shall take the Rectification Application with Rectification Acknowledgement no. 829929080230825 on board and thereafter, consider and dispose of the same by an Order, as required by Section 154 and other provisions of the I.T. Act, in accordance with law and on its own merits.

[iv] The Order to be passed on the Rectification Application is to be communicated to the petitioner in the prescribed mode.

[v] The demand made by the respondent Income Tax Department authorities through the Intimation, Demand Notices, etc. on and from 25.03.2019 shall abide by the decision to be taken in the Rectification Application.

11. It is clarified that this Court has not made any observation on the merits of the claims, made by either of the parties in the writ petition, and therefore, the Rectification Application is to be considered and decided on its own merits and in accordance with law.

JUDGE

Comparing Assistant