

Even if Form no. 10 was filed belatedly AO couldn't deny benefit of sec. 11(2)

Summary – The High Court of Madras in a recent case of Chandrabhujji Maharaj Jain, (the Assessee) held that even if Form no. 10 was filed belatedly AO couldn't deny benefit of sec. 11(2)

Facts

- The assessee trust filed a petition under section 154, stating that it had not filed Form No. 10 along with the extract of the Board Resolution for accumulation of funds as envisaged under section 11(2), which in turn permitted the assessee not include the said income for taxation purposes.
- The Assessing Officer, rejected the request.
- The Commissioner (Appeals) and the Tribunal upheld order passed by Assessing Officer.
- On appeal:

Held

- The assessee while filing the petition under section 154 had admitted its mistake that it did not file hard copies before the Assessing Officer, and along with the return of income.
- The HC held that when there was no assessment under section 143(3) and the fact that the assessee has separately filed Form No. 10 along with the Board Resolution it is a fit case where the Assessing Officer should be directed to take note of Form No. 10 accompanied by the Board Resolution and thereupon take a decision on merits.
- For the above reasons, the appeal is allowed and the order passed by the Tribunal as well as the Commissioner (Appeals) are set aside.