IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1136 OF 2016

Omega Dx (Asia) Pvt. Ltd. ..Petitioner

v/s.

The Central Board of Direct Taxes & Ors. .. Respondents

Mr. Girish Dave a/w R.S. Padvekar i/b Sameer G. Dalal for the petitioner
Mr. N.C. Mohanty for the respondent

CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.

DATED : 27th JULY, 2016.

P.C.

1. This petition under Article 226 of the Constitution of India challenges order dated Nil, July, 2015 passed by the Central Board of Direct Taxes under Section 119(2)(b) of the Income Tax Act, 1961 (the Act). The impugned order rejects the petitioner's application for condonation of delay in filing of its Return of Income for Assessment Year 2013-14.

2. After Mr. Dave, learned Counsel appearing for the petitioner commenced making his submissions, we noticed that the impugned order is dated Nil, July, 2015 and the same is received by the petitioner

on 17th July, 2015. We also notice that the petition has been filed on 30th March, 2016.

3. In the above view, we enquired of Mr. Dave, learned Counsel appearing for the petitioner the reason for the delay. Our attention was invited to averments made in the petition with regard to the delay as under :-

> *"The petitioner has received the order dated Nil, July 2015 passed under Section 119(2) of the Act passed by office of Respondent No.1 on 17.07.2015. Under the circumstances, the petitioner most respectfully submits that there is no undue delay in filing this petition. However, delay if any in filing the present petition may be condoned to meet ends of justice".*

4. However, Mr. Dave thereafter sought to explain the delay by reasons which are not a part of the petition. In fact, we declined to hear him on an explanation not indicated in the petition. We, therefore, indicated our inclination to dismiss the petition.

5. On expression of the above, Mr. Dave sought liberty to file a further affidavit. However, the same was refused in the present facts.

6. It needs no repetition that a party seeking relief under Article 226 of the Constitution of India has to move this Court expeditiously for relief. The rationale behind it is that writ is an extraordinary remedy and a party who on account of delay lets the other-side to bonafide conclude that dispute is settled cannot be put to prejudice by letting it challenge a stale issue. No doubt, where there is a reasonable explanation for the delay and the same is found acceptable, the Court would consider the merits but in this case there is no explanation in the petition filed under Article 226 of the Constitution of India for the delay. The conduct of the petitioner dis-entitles it to any extraordinary relief under this Court's writ jurisdiction.

7. In the above circumstances, we see no reason to entertain the petition. The Writ Petition is dismissed. No order as to costs.

(A.K. MENON, J.) **(M.S. SANKLECHA, J.)**