IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2509 OF 2024

Friends Union For Energising Lives (Fuel) ….Petitioner

V/s.

Commissioner of Income Tax (Exemptions) & Anr ....Respondents

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Mr. Sham Walve i/b Mr. Tanzil Padvekar & Ms Tejal Kharkar for Petitioner.
Mr. Suresh Kumar for Respondents.

CORAM : K. R. SHRIRAM &
Dr. NEELA GOKHALE, JJ.
DATED : 28st FEBRUARY 2024

P.C. :

1 Petitioner is impugning an order dated 14th December 2023 passed by respondent no.1 rejecting petitioner's application for condonation of delay in filing Form 10 under Section 119(2)(b) of the Income Tax Act 1961. The application has been rejected on the basis that the onus to justify the delay in filing of Form 10 lies on assessee which, in the instant case, assessee had failed in substantiating the same and also establishing genuine hardship caused to it.

2 We have considered the application that was filed and we cannot conclude that the finding of respondent no.1 was perverse or erroneous.

3 At the same time, Mr. Walve submits that petitioner be given an opportunity to justify the delay in filing of Form 10 and also in establishing genuine hardship and for that purpose respondent no.1 be directed to reconsider the application filed for condonation of delay in filing of Form 10. Mr. Walve states within one week from the date this order is

uploaded, petitioner will file further affidavit in support of condonation of delay explaining the delay and establishing genuine hardship. Mr. Suresh Kumar has no objection. We are conscious of the fact that the power to condone the delay in filing of Form 10 has been conferred to enable the authorities to do substantial justice to the parties. While considering these aspects, one should be mindful of the fact that no applicant stand to benefit by lodging delayed Form 10. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

4 Therefore, petition disposed with the following order:

(a) Order dated 14th December 2023 is quashed, set aside and remanded.

(b) Within one week from the date of this order being uploaded, petitioner will file further affidavit in support of application for condonation of delay, explaining the delay and establishing the genuine hardship.

(c) Within three weeks thereafter, respondent no.1 shall reconsider the application for condonation of delay and pass a final order on merits after hearing petitioner, notice whereof shall be given atleast three working days in advance.

(Dr. NEELA GOKHALE, J.) **(K. R. SHRIRAM, J.)**