IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11679 OF 2024

Magenta Power Private Limited .. Petitioner

Versus

Central Board of Direct Tax and Ors. .. Respondents

Mr.Devendra Jain a/w. Mr.Shashank A. Mehta, a/w. Ms. Saukhya Lakade, *Advocates for the Petitioner.*
Mr. Akhileshwar Sharma*, Advocate for the Respondents.*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE: SEPTEMBER 23, 2025

P. C.

1. At the outset, the learned Advocate appearing on behalf of the Petitioner states that though the subject matter of the above petition is in relation to A.Y. 2022-23, inadvertently, the return filed at Exhibit-C2 is for A.Y. 2023-24, and it is therefore solely to substitute Exhibit-C2 with the correct return, namely, for A.Y. 2022-23.

2. Mr. Sharma, the learned Advocate appearing on behalf of the Revenue, merely stated that the Revenue has no objection if the aforesaid substitution is allowed. Considering these facts and circumstances, the Petitioner are

permitted to substitute Exhibit-C2 with the return of income filed for A.Y. 2022-23. The substitution shall be done immediately in front of the Associate.

3. Rule. Respondents waive service. With the consent of the parties, Rule made returnable forthwith and heard finally.

4. The above Writ Petition has been filed to quash and set aside the impugned order dated 2nd April 2024, rejecting the condonation application in filing its return under Section 139 (1) of the Income Tax Act, 1961. Mr. Jain, the learned Counsel for the Petitioner, submitted that there was a delay of 44 days in filing the Return of Income for the A.Y. 2022-23. The delay has been explained in detail paragraphs 3 and 4 of the Application filed by the Assessee company under Section 119 (2) (b) of the IT Act. The Application filed under Section 119 (2) (b) is on record at Exhibit-C3 to the Petition. He further submitted that in the facts of the case, the delay is adequately explained, and therefore, the delay ought to have been condoned.

5. Mr. Sharma, learned Counsel for the Respondent, opposed the prayer of the Petitioner. He submitted that the assessee was provided sufficient opportunities to explain the delay. The order was passed by Respondent No.1

after giving adequate opportunities to the assessee. The action of Respondent No.1 in rejecting the application is on the basis of material available on records as well as on merits. It is a just and fair order. There is no violation of principles of natural justice. Relying upon the affidavit affirmed on 2nd January 2025, he further submitted that the date of filing the return was extended for the said A.Y. 2022-23 to 7th November, 2022. 2022. However, the original return of income for A.Y. 2022-23 was filed on 21.12.2022 and revised return was filed on 29.12.2022, declaring a loss of Rs. 1,62,54,101/-. The delay in finalization of books of accounts and preparation of financial statements, in anticipation of the merger process filed u/s 233 of the Companies Act, 2013, before the Regional Director, Registrar of Companies cannot be deemed as sufficient cause to condone the delay.

6. We have heard the parties at length. We find that there was a bona fide reason for the delay in filing the Return of Income. In the ever emerging challenges and competition, corporate restructuring is a legitimate tool to enhance value of a company. In our opinion, the explanation given for the delay is adequately explained. Time and again, this Court has taken the view that the Authorities, whilst considering applications under Section 119 (2) (b) ought to take a justice oriented approach rather than a pedantic one. One such decision is in the case of ***Pushpa Geethan Gada (Legal Heir/Legal***

***Representative of Geethan Damji Gada) V. Principal Commissioner of Income Tax-4, Mumbai & Ors., Writ Petition No.2094 of 2025*, decided on 02.09.2025.**

7. In the facts of the present case, we find no justification for not condoning the delay in filing the Income Tax Return by the Assessee company.

8. In these circumstances, we hereby quash and set aside the impugned order dated 2nd April 2024. We also hereby condone the delay in filing the Income Tax Return of the Assessee company under Section 139(1) of the IT Act.

9. Rule is made absolute in the aforesaid terms, and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

10. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR , J.] **[B. P. COLABAWALLA, J.]**

D.G. Parab, HG Steno