Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11759 OF 2024
WITH
WRIT PETITION NO. 11761 OF 2024
WITH
WRIT PETITION NO. 15329 OF 2024
WITH
WRIT PETITION NO. 11762 OF 2024
WITH
WRIT PETITION NO. 15643 OF 2024

Shree Govardhani Sarvajanik
Seva Sanstha ...Petitioner

Versus

Commissioner of Income Tax (Exemptions)
and Others ...Respondents

Ms Prashant Kulkarni with Ms. Rachna Mamnani withMs. Ritika Rajeev i/b Mr. Vithal Sankpal*, for Petitioner in WP 11759/2024, 11761/2024 and 11762/2024.*

Mr. Prashant Kulkarni with Ms. Rachna Mamnani with Ritika Rajeev *for Petitioner in WP/15329/2024 and WP 15643/2024.*

Mr. Akhileshwar Sharma*, for Respondents.*

CORAM: M.S. Sonak &
Jitendra Jain, JJ.

DATED: 07 APRIL 2025

PC:-

1. Heard learned Counsel for the parties.

2. Rule. The Rule is made returnable in each of these Petitions immediately at the request of and with the consent of the learned counsel for the parties.

3. The learned counsel for the parties agrees that a common judgment and order can be disposed of all these Petitions.

4. These Petitions concern the condonation of delay in filing Form-10B for claiming the exemptions.

5. The CBDT Circular No.16 of 2024, dated 18 November 2024, provides that where the delay is less than 365 days, the CIT exemptions can deal with the applications, seeking condonation of delay. If the delay is more than 365 days, then an application for condonation has to be considered by the Chief Commissioner of Income Tax.

6. Writ Petition No. 11759/2024 and Writ Petition No. 11761/2019 pertain to the assessment years 2019-2020 and 2018-2019. Accordingly, both these Petitions are covered by the Circular No.16 of 2024, dated 18 November 2024.

7. In the above two Petitions, the Petitioners claimed that the delay was only 135 and 140 days, respectively. The

Petitioner computed this delay up to the date of filing Form 10BB. In fact, the Petitioner should have computed the delay up to the filing of Form 10B because this was the relevant form that the Petitioner was required to file to claim exemptions. Accordingly, the delay in these cases would exceed 365 days.

8. In both the above Petitions, the Chief Commissioner of Income Tax, by letter dated 30 October 2023, had called upon the Petitioner to submit further particulars to explain the delay. Instead of responding to the communication dated 30 October 2023, the Petitioner has rushed to this Court possibly to challenge the order dated 01 March 2022 made by CIT (exemptions), refusing to condone the delay. Since, in this case, the delay exceeded 365 days, CIT (exemptions) could not have dealt with the applications. The CIT (exemptions) order dated 01 March 2022, which is impugned in both these Petitions, is, therefore, set aside, and the Petitioner is granted four weeks to respond to the communication dated 30 October 2023.

9. Upon receipt of the Petitioner's response and if no response is filed within four weeks, the Chief Commissioner of Income Tax is directed to dispose of the Petitioner's application for condonation of delay as expeditiously as possible and within three months.

10. As far as the remaining three Writ Petitions are concerned, the delay is 865, 1930, and 1245 days, as admitted by the Petitioner. Here again, the Petitioner has computed the delay up to the date of filing Form 10BB. Therefore, the delay might be more significant.

11. The learned Counsel for the parties cannot apprise this Court about the authority competent to consider applications for condonation of delay for assessment years before 2018-2019. However, the CIT (Exemptions) has declined to condone the delay in this case. The learned Counsel for the Respondents faintly suggests that such powers might vested with the CBDT.

12. Considering this confusion, we set aside the orders made by the Commissioner (exemption) and direct the appropriate authority to consider and dispose of Petitioner's applications for condonation of delay within three months from today. The Petitions are disposed of in the above terms. All contentions of all parties on merits are left open.

13. The rule is made absolute in these Petitions in the above terms without any cost orders.

14. All concerned parties must act upon the authenticated copy of this order.

(Jitendra Jain, J) **(M.S. Sonak, J)**