Chaitanya

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4162 OF 2025

Sau Dwarkabai Tai Karwa Charitable
Public Trust, Nashik. …Petitioner

Versus

Commissioner of Income Tax
(Exemptions)-Pune at Nashik And Ors. …Respondents

Mr Devendra Jain a/w Mr Shashank Mehta, Ms Radha Halbe, for Petitioner.
Mr A. K. Saxena, for Respondent-Revenue.

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

DATED: 25 MARCH 2025

ORAL JUDGMENT (PER- M.S. SONAK):-

1. Heard learned counsel for the parties.

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

3. This Petition challenges the communication/order dated 08 August 2024, by which the CIT Exemption, Pune at Nashik, has dismissed the Petitioner's application for condonation of delay in filing Form-10 for the Assessment Year 2021-2022. The Petitioner is a charitable trust which was granted registration under Section 12A of the Income Tax Act, 1961 (the "IT Act"), on 12 December 2003.

4. For the Assessment Year 2021-2022, the Petitioner filed income tax returns on 12 January 2022. Two days earlier, on 10 January 2022, the Petitioner filed the necessary Form-10B for the said assessment year.

5. On 14 September 2022, the Petitioner received an intimation under Section 143(1) of the IT Act. The Petitioner then filed Form-10 on 12 November 2022. Since this was filed after delay, upon pointing out the delay, the Petitioner filed an Application on 10 February 2024, seeking condonation of delay. By the impugned communication/order dated 08 August 2024, the Application seeking condonation of delay has been rejected. On 17 September 2024, a copy of the recovery notice was also issued to the Petitioner. Hence, this Petition.

6. From the perusal of the Application dated 10 February 2024, it is true, as contended by Mr Saxena, learned counsel for the Revenue, that not many reasons have been set out explaining the delay. Still, given the peculiar facts in this case, we cannot overlook the attendant circumstances and consider the cause shown in the light of such attendant circumstances.

7. The record shows that the Petitioner is a small charitable trust engaged *inter-alia* in awarding scholarships for educational purposes. The returns were filed for Assessment Year 2021-2022 during the extended period due to the COVID-19 pandemic. This means that the COVID-19 pandemic had just ended, and during this pandemic, it must have been challenging for Petitioner-Trust to have its documentation in order.

8. The record also shows that the Petitioner has been diligent and punctual in filing the necessary Form-10 along with its returns for the previous years. The Petitioner, in its application for condonation of delay, has relied upon a precedent, thereby suggesting that the circumstances referred to in the precedent were not qualitatively different from those in the Petitioner's case. There are no malafides involved, and it is not as if the Petitioner has gained any undue advantage on account of the delay in submitting Form-10.

9. In this case, the return was filed within the prescribed period, but Form-10 did not accompany it. After this lacuna was pointed out, the same was rectified, but with some delay. From the Application for condonation of delay, it appears that the Petitioner did not have any professional assistance. This position was affirmed by Mr. Jain, learned counsel for the Petitioner.

10. Therefore, considering all such factors, we think sufficient cause has been shown for the condonation of delay. In such matters, there is bound to be some lapse on the part of the party seeking condonation. However, suppose the explanation is acceptable and plausible and further. In that case, the Applicant has not acted malafide or derived some undue advantage from such delay; the cause shown could be accepted.

11. For all the above reasons, we set aside the impugned communication/order dated 08 August 2024 and allow the Petitioner's Application for condonation of delay.

12. The Petitioner is now free to file consequential applications, now that we have condoned the delay.

13. The rule is made absolute in the above terms without any costs order.

14. All concerned can act on an authenticated copy of this order.

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