



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

WRIT PETITION NO. 1598 OF 2025

Perks Links and Services Pvt. Ltd.

.. Petitioner

Versus

Principal Commissioner of Income
Tax-6, Mumbai and Ors.

.. Respondents

Mr. Devendra H. Jain, a/w Shashank A. Mehta, Saukhya Lakade,
i/b Raddha Halbe, Advocates for the Petitioner.

Mr. Akhileshwar Sharma (through V.C.), Advocate for
Respondent.

**CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.**

DATE: NOVEMBER 11, 2025

P. C.

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

2. The above Writ Petition has been filed to quash and set aside the
impugned order dated 29.01.2025, rejecting the application to condone the
delay in filing its revised/rectified Return of Income under Section 119(2)(b)
of the Income Tax Act, 1961 (“the Act”) for Assessment Year 2018-19, and the

intimation under Section 143(1) of the Act dated 17.11.2019 whereby the refund due to the Petitioner was reduced by Rs.25,52,814/-.

3. Mr Jain, the learned Counsel for the Petitioner, submitted that the tax audit report A.Y. 2018-19 was filed on 30.10.2018, and the Return of Income was filed on 31.10.2018. It is the case of the Petitioner that under clause 20(b) of the tax audit report [for A.Y. 2018-19], the Tax Auditor was required to report details only of contributions received from employees for funds as referred to in Section 36(1)(va) of the Act which were not paid till the applicable due date. The amount of such contribution received from employees but not paid till the due date was Rs. 53,25,866/-. However, the Tax Auditor reported that there was a delay in depositing the contribution amounting to Rs. 92,58,302/-, which includes the employee's contribution of Rs. 53,25,866/- as well as the employer's contribution of Rs. 39,32,436/-.

4. The said Return of Income was processed under Section 143(1) vide intimation dated 17.11.2019 wherein adjustments were made, *inter alia* disallowing Rs. 92,58,302/- in respect of amounts reported by the Tax Auditor in clause 20(b) of the Tax Audit Report (w.r.t. employee's as well as employer's contribution to Provident Fund/ESIC). The Petitioner company then realised that the amount reported in the said Tax Audit Report was

incorrect. As per the Petitioner, the amount which ought to be reported in clause 20(b) was only Rs. 53,25,866/-, viz. the employee's contribution to such funds and not the employer's contribution to such funds of Rs. 39,32,436/- (which aggregated to Rs. 92,58,302/-).

5. To rectify this mistake, the Auditor filed a revised Tax Audit Report on 27.05.2021, and the Petitioner filed a Return of Income on 27.05.2021 by taking into consideration the revised tax audit report. The Petitioner, then made an application under Section 119(2)(b) before the Respondent No.1 on 19.10.2022, requesting to condone the delay in filing the Return of Income. The said application was rejected by the Respondent No.1 vide order dated 29.01.2025, which is impugned in the present petition.

6. In this backdrop, Mr Jain, submitted that the limitation period to furnish the revised Return of Income under Section 139(5) for the A.Y. 2018-19 was 31.03.2019. The Petitioner became aware of the error in reporting the amounts in the original tax audit report only when it reviewed the intimation dated 17.11.2019 issued under Section 143(1). It is the contention of the Petitioner company that initially it was not aware about the said intimation dated 17.11.2019 as the same was not traced in its email and that it became aware of it only after reopening of its office operations -post

the first wave of the COVID-19 Pandemic. Thereafter, the Petitioner intimated its Tax Auditor about the error/discrepancy in reporting the figure in clause 20(b). Consequently, the revised tax audit report was filed on 27.05.2021. The revised/rectified Return of Income was then furnished on 27.05.2021. According to the Petitioner Company, there was a delay in filing of the revised/rectified Return of Income of around 17 months. Out of this, a period of around 13 months was when the COVID-19 Pandemic was prevalent. Thus, effectively, the delay was of around 4 months. The delay has been explained in detail in the Application filed by the Petitioner company on 19.10.2022 (placed at 'Exhibit F' of the petition). Mr. Jain further submitted that in the facts of the case, the delay is adequately explained, and therefore, the delay ought to have been condoned.

7. On the other hand, Mr. Sharma, the learned Counsel for the Respondent, relying upon the affidavit sworn on 23.06.2025 by one Uma Shankar Prasad, ITO 15(2)(1) Mumbai, strongly opposed the prayer of the Petitioner. He submitted that the action of Respondent No. 1 in rejecting the application is on the basis of material available on record as well as on merits and it is a just and fair order. He supported the order of Respondent No.1 wherein it was stated that the Petitioner company had sufficient time (of almost 4 months) before the onset of the COVID-19 Pandemic to rectify its

mistake. Even during the Pandemic period, the Petitioner assessee has filed its Return of Income for A.Y. 2020-21 on 5.2.2021 which only shows that the Petitioner's accounts/finance division was very much working. He stated that the reason cited by the Petitioner that the intimation dated 17.11.2019 under Section 143(1) was missing/not seen in the email and that it was discovered only after the reopening of the office post Pandemic of COVID-19, does not inspire any confidence and the same is without cogent evidence. He, therefore, submitted that the Petitioner is not entitled for the discretionary relief sought from this Court in its writ jurisdiction. Consequently, he submitted that the above Writ Petition be dismissed.

8. We have heard the parties at length. We find that the limitation period to furnish the revised Return of Income for the A.Y. 2018-19 [under Section 139(5)] was 31.03.2019 (i.e. upto the end of the relevant Assessment Year). However, the intimation under Section 143(1) for the said Assessment Year was itself issued on 17.11.2019, where from the discrepancy (which was the subject matter of rectification/revision in the Return of Income) came to be noticed by the Petitioner assessee. It is a fact that after a lapse of almost 17 months from the date of issuance of intimation under Section 143(1), the Petitioner filed the revised/rectified Return of Income on 27.05.2021 based on the revised tax audit report.

9. Though the said intimation was issued 4 months prior to the onset of the COVID-19 Pandemic, it is plausible that Petitioner might have missed the email containing the said intimation. Further delay on account of the disruption caused by the Pandemic of COVID-19 was beyond the control of the Petitioner assessee.

10. Further, we cannot completely overlook the conduct of the Petitioner assessee. In paragraph 4 of the impugned order of Respondent No.1 dated 29.01.2025, it is recorded that the Jurisdictional Assessing Officer in its report has stated that the Petitioner has filed the Return of Income in past years within the limitation period. Further, even for the present Assessment Year 2018-19, the original Return of Income was filed within the due date. We also find that in paragraphs 4 and 5 of the impugned order it is stated that Jurisdictional Assessing Officer as well as the Range Head had submitted that it was a fit case for condonation of delay in filing the return.

11. In our considered opinion, in the facts of the present case, the Petitioner has given sufficient explanation for the delay. We find that there was a *bona fide* reason for the delay in filing the said revised/rectified Return of Income. 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 ***Magenta EV solutions Private Limited vs. CBDT [Writ Petition No.11689 of 2024, decided on 23.09.2025]***.

12. In the facts of the present case, we find no reasonable justification for not condoning the delay in filing the revised/rectified Income Tax Return by the Petitioner Company.

13. In these circumstances, we deem it fit to allow the Writ Petition, and therefore, quash and set aside the impugned order dated 29.01.2025. We also hereby condone the delay in filing the revised/rectified Income Tax Return of the Petitioner company dated 27.05.2021. The authorities shall consider the revised/rectified Return of Income and issue a fresh intimation under Section 143(1) of the Act. In the meantime any demand/recovery/adjustment arising under intimation under Section 143(1) of the Act dated 17.11.2019 shall not be proceeded further.

14. 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.

15. 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.]