IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2223 OF 2025

R. Shantilal & Co. .. Petitioner

Versus

Pricipal Commissioner of Income Tax 17 Mumbai .. Respondents

Mr. Devendra H. Jain*, with Mr. Shashank A. Mehta, Ms. Saukhya D. Lakade , Advocates for the Petitioner.*

Mr. Ravi Rattesar*, Advocate for the Respondent.*

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

DATE: OCTOBER 6, 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 27th December, 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 is a delay of 87 days between the due date of filing of the return, i.e. 7th November, 2022, and the application made under Section 119(2)(b) of the

Act for condonation for filing of Income Tax Return dated 2nd February, 2023. The delay has been explained in detail in paragraphs 2 to 4 of the Application filed by the Assessee firm under Section 119(2)(b) of the Income Tax Act and in the further submission dated 25th May, 2023. The Application filed under Section 119(2)(b) and the additional submission made by the Petitioner are on record at Exhibit-C and Exhibit-D to the Petition respectively. He further submitted that, in the facts of the case, the delay is adequately explained and, therefore, the delay ought to have been condoned.

3. Mr. Ravi Rattesar, the learned counsel for the Respondent, opposed the prayer of the Petitioner. He submitted that the unavailability of the staff of the Petitioner to assist the tax auditor is difficult to believe. Further he submitted that it was the responsibility of the Petitioner to ensure availability of accounts and assistance to the tax auditor in the absence of a particular staff member. He submitted that the reasons stated by the Petitioner do not constitute reasonable cause which prevented him from filing of his Income Tax Return within the due date u/s. 139(1). Hence, the action of Respondent No.1 in rejecting the application is correct and reasonable.

4. 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. We say this because the

non-filing of the return was due to a *bona fide* lapse, and there was no maladies or intentional negligence or error on part of the Petitioner. 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 the application under Section 119(2)(b), ought to take a justice-oriented approach rather than a pedantic one.

5. In the facts of the present case, we find no jurisdiction for not condoning the delay in filing the Income tax Return by the Petitioner-Assessee.

6. In these circumstances, we hereby quash and set aside the impugned order dated 27th December, 2024. We also hereby condone the delay in filing the Income Tax Return of the Petitioner-Assessee under Section 139(1) of the Income Tax Act.

7. 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.

8. 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.]**

Vina Khadpe,PS