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

WRIT PETITION NO. 2697 OF 2025

People's Mobile Hospitals .. Petitioner

Versus

Commissioner of Income tax (Exemption)
and Ors. .. Respondents

Adv. Atul Jasani*, i/b Ms. Vasanti Patel, for the Petitioner.*

Adv. Prathamesh P. Bhosle*, for the Respondent.*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE: SEPTEMBER 15, 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 challenges the impugned order dated 12th March 2025, passed by Respondent No.1 for the Assessment Year 2022-23 under Section 119(2)(b) of the Income Tax Act, 1961 (for short "the Act") rejecting the Petitioner's application dated 8th March 2023 filed on 16th March 2023 seeking a condonation of delay of 51 days in filing Form No.10.

Consequently, the exemption/deduction claimed by the Petitioner under Section 11 of the Act has been denied to the Petitioner, which is a Charitable Trust.

3. The Petitioner is a Charitable Trust established exclusively for medical purposes and is registered as a Public Charitable Trust under the provisions of the Maharashtra Public Trusts Act, 1950, with the office of the Charity Commissioner, Greater Mumbai, vide PTR No. F-124(Bom) dated 21st May 1953. Since then, it has been regularly filing its Return of Income and complying with the other provisions of the Act. The Petitioner, having PAN as AAAAP0083B, is registered under Section 12A(1)(ac)(i) of the Act vide registration No.AAAAP0083BE19753 dated 24th September 2021 and 12A(a) of the Act vide order dated 19th August 1975.

4. The primary object of the Trust is to provide medical care and services to the community, especially to the poor, needy and afflicted who are in dire need of medical services and can ill afford the treatment. The Petitioner, in furtherance of its medical object, is running a People's Mobile Hospital at Worli and provides the following medical services at their day care hospital: Medical, Surgical, Gynaecology, Opthalmic, Dental, Cardiology, ENT, Physiotherapy, Pathology and Bacteriology, X-ray, Ophthalmic Day care, Operation Theatre and OPD for Opthalmic patients, Sonography, Skin, Mammography, Haemodialysis, Complete check-up and complete heart check-up, OPG.

5. The Petitioner filed the Return of Income for the A.Y. 2022-23 on 30th December 2022, i.e. within the time limit prescribed under Section 136(4) of the Act. The due date for filing of the Form No.10 in terms of the provisions of Section 11(2) of the Act was on or before the due date of filing of the income tax return under Section 139(1) of the Act, viz. The extended due date ,i.e. 7th November 2022, (the due date was extended by Circular No.20/2022 dated 26th October 2022 issued by the Central Board of Direct Tax (CBDT) to 7th November 2022). Form No.10 was filed by the Petitioner on 28th December 2022, resulting in a delay of about 51 days. Since there was a delay in filing Form No.10 the assessment for A.Y. 2022-23, was completed under Section 143(1) of the Act, disallowing the exemption under Section 11 claimed by the Petitioner.

6. Since there was a delay in filing Form No.10, the Petitioner filed an application on 16th March 2023 before Respondent No.1 seeking a condonation of delay in filing the said Form. It was submitted that the Petitioner could upload the said Form No.10 only by 28th December 2022, i.e. 51 days after the due date. The Petitioner could not file the said Form No.10 in due time as the former accountant of the Petitioner, who handled the accounts and accounting matters, had left the job during the second Covid wave in 2021. The Petitioner appointed a part-time accountant, who also left the job, and they managed to appoint a new permanent accountant only in March 2022. The new accountant lacked experience and knowledge in handling accounting and compliance matters of charitable institutions, and took time to familiarise himself with the accounts and settle down. These reasons caused a delay in completing the accounts and submitting the same to the Chartered Accountants for finalising the audit report and signing of the financial statements for the financial year ending 31st March 2022. As the audit report in Form No.10 was delayed, the amount of income to be accumulated under Section 11(2) of the Act could not be ascertained and hence Form No.10 also could not be filed on or before the due date of filing of the Return of Income, i.e. 7th November 2022. Form No.10 was e-filed on 28th December 2022, which was delayed by 51 days, before filing the Return of Income for A.Y. 2022-23, which was also e-filed on 30th December 2022.

7. It was also stated that the said Form No.10 was available on record when the said Return of Income was processed under Section 143(1) of the Act at CPC on 8th March 2023. Accordingly, the Petitioner prayed for condonation of delay of 51 days in filing the said Form No.10.

8. Respondent No.1, however, vide the impugned order dated 12th March 2025, rejected the application for condonation of delay on the ground that the Petitioner has not been able to adduce any reasonable cause which prevented it from filing Form No.10 for accumulation of surplus within the specified date.

9. In this factual backdrop, the Counsel for the Petitioner submitted that Respondent No.1 has not doubted or denied any of the facts as stated by the Petitioner. In fact, there is not even a mention that the delay of 51 days is caused because of any willful/intentional default on the part of the Petitioner. The fact that the former accountant of the Petitioner who handled the accounts and accounting matters had left the job during the second Covid wave in 2021, and the Petitioner appointed a part-time accountant who also left the job, and they managed to appoint a new permanent accountant only in March 2022, is also not disputed by Respondent No.1. The evidence filed in support thereof is also not doubted by Respondent No.1. The delay was not caused on account of change in accountants, who were responsible for maintaining the financial records and co-ordinating the preparation for filing the audit report, as stated above. This failure was beyond the Petitioner's control and not due to any wilful neglect. The delay was purely technical and there was no loss of revenue, nor any attempt to evade tax, was the submission.

10. The Counsel for the Petitioner relied upon the judgment of the Hon'ble Supreme Court in the case of ***CIT v. Nagpur Hotel Owners Association [(2011) 247 ITR 201 (SC)]*** wherein it is held that Form No.10 can be filed at any time before the assessment is completed. She has also relied upon the judgment of this Court in the case of ***CIT v. Sakal Relief Fund [(2017) 295 CTR 561 (Bom)]***, wherein it is held that even if Form No.10 was filed during reassessment proceedings by Assessee-Trust, benefit of accumulation under Section 11(2) was available because such filing would be considered within the time allowed for furnishing Return of Income under Section 139(4).

11. The learned Counsel further submitted that the Hon'ble Gujarat High Court in the case of ***CIT (Exemption) v. Bochasanwasi Shri Akshar Purshottam Public Charitable Trust [(2018] 409 ITR 591 (Guj HC)]*** has held that technical errors relating to filing of Form 10/10-B etc. cannot be fatal and cannot be the basis for denial of deduction/exemption. He also pointed out that the Hon'ble Supreme Court has rejected the SLP filed by the Department against the said judgment.

12. It was contended by the learned Counsel that it is a fairly settled legal position that filing of statement of accumulation in Form No.10 is directory in nature i.e. the requirement of furnishing Form No.10 by the due date is merely procedural and the benefits of exemption/deduction under Section 11(2) of the Act cannot be denied only on account of the delay in filing of the said Form No.10, especially when such form was available at the time of processing/assessment.

13. On the other hand, the Counsel for the Respondents, however, defended the action of the Revenue and stated that the Petitioner has failed to make out a case for condonation of delay as discussed by Respondent No.1 in his order.

14. Having heard the parties, *prima facie*, we agree with the contentions of the Petitioner. We find that, admittedly, there was only 51 days delay in filing Form No.10. However, we find that this delay is not such that it should deny the Petitioner from filing Form No.10. We find that if this delay is not condoned, there will be genuine hardship to the Petitioner, inasmuch as, the Petitioner would be denied the exemption otherwise claimed under the provisions of Section 11(2) of the Act, and which is a substantial amount.

15. We are of the view that Respondent No.1 ought to have taken a justice-oriented approach rather than a pedantic one and condoned the delay. We find that the Hon'ble Supreme Court in the case of *CIT v. Nagpur Hotel Owners Association (supra)* has clearly held that Form No.10 can be filed at any time before the assessment is completed. Similarly, we find that this Court in the case of *CIT v. Sakal Relief Fund (supra)* has held that even if Form No.10 was filed during reassessment proceedings by Assessee-Trust, benefit of accumulation under Section 11(2) was available because such filing would be considered within the time allowed for furnishing the Return of Income under Section 139(4).

16. Further, the Hon'ble Gujarat High Court in the case of *CIT (Exemption) v. Bochasanwasi Shri Akshar Purshottam Public Charitable Trust (supra)* has held that technical errors relating to filing of Form No.10/10B etc. cannot be fatal and cannot be the basis for denial of deduction/exemption. We note that the Hon'ble Supreme Court has rejected the SLP filed by the Department against this judgment.

17. In view of the foregoing discussion, we hereby quash and set aside the impugned order dated 3rd March 2025 passed by Respondent No.1 under Section 119(2)(b) of the Act.

18. Now that the impugned order is quashed, we also hereby condone the delay in filing Form No.10 by the Petitioner.

19. Rule is made absolute in the aforesaid terms, and the Writ Petition is also disposed of in terms thereof. No order as to costs.

20. 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.]**

Darshan Patil