IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2991 OF 2025

Institute of Actuaries of India .. Petitioner

Versus

Commissioner of Income Tax, (Exemption) & Anr. .. Respondents

Mr.K. Gopal a/w Om Kandalkar, Advocates for the Petitioner.

Mr.Prathamesh P. Bhosle, Advocate for the Respondents.

CORAM : B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE : SEPTEMBER 22, 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 is filed seeking to quash and set aside an order dated 25th February 2025 passed by Respondent No.1 rejecting the Petitioner's application for condonation of delay in filing Form No.10BB for the A.Y. 2018-19. The other relief sought is a direction to Respondent No.1 to condone the delay and accept the Form No.10BB.

3. The present matter pertains to the A.Y. 2018-19. The Petitioner filed its return of income on 30th October 2018 declaring NIL income after claiming exemption under Section 11 as well as 10(23C)(vi) of the Income Tax Act, 1961 amounting to Rs.14,31,07,001/- and Rs.3,35,12,827/- respectively. The Audit Report in Form No.10BB was obtained on 29th September 2018 and the same was uploaded on the Income Tax portal on 27th October 2018. The due date for filing the said audit report was upto 31st October 2018 for Assessment Year 2018-19. However, the said Form No.10BB was verified on the e-filing portal only on 19th January 2019. As per the Petitioner Institute, the said delay in verifying the Form No.10BB occurred because they were awaiting instructions for verification from their Chartered Accountant. Hence, there is a delay of 81 days in verifying Form No.10BB, though the same was uploaded on the Income Tax portal on 27th October 2018.

4. Subsequently, Respondent No.2 issued intimation under Section 143(1) of the Act on 26th February 2020 denying the abovementioned claims of exemption amounting to Rs.14,31,07,001/- and Rs.3,35,12,827/- under Section 11 as well as 10(23C)(vi) of the Act respectively. Thus, a tax demand of Rs.7,71,04,879/- was also raised for the year under consideration.

5. In the interregnum, the Petitioner preferred a request/application for rectification before Respondent No.2, which was rejected vide order dated 21st May 2021 as well as before the Jurisdictional Assessing Officer, which is pending till date. The Petitioner Institute also preferred an Appeal before the National Faceless Appeal Centre, Delhi (NFAC) on 18th January 2022 against the intimation issued under Section 143(1) of the Act. During the pendency of the said Appeal, the Petitioner filed an Application for condonation of delay before Respondent No.1 under Section 119(2)(b) of the Act on 12th May 2022 seeking condonation of delay of 81 days in filing Form No.10BB. Subsequently, the NFAC passed an order on 7th November 2022 directing Respondent No.1 to verify and allow the claim of exemption to the Petitioner subject to the condonation of delay under Section 119(2)(b) of the Act.

6. Respondent No.1, by the impugned order, refused to condone the delay on the ground that no "reasonable cause" was shown for the aforesaid delay. Thus, Respondent No.1 concluded that there was 'negligence' and 'lack of due diligence' on the part of the Petitioner in filing Form No.10BB.

7. From the record, we find that the delay has been explained by the Petitioner by stating that the delay has occurred because the Chartered Accountant failed to prompt/instruct the authorized person from the Petitioner Institute to verify or authorize the Audit Report in Form No.10BB on the e-filing portal before the due date of filing of the return. Thus, though the said Form No.10BB was uploaded by the Chartered Accountant on the portal on 27th October 2018 i.e., within the due date, the same was verified only on 19th January 2019 causing a delay of 81 days. However, Respondent No.1 refused to accept the same.

8. Having considered the matter in its entirety, we are of the view that the Petitioner Institute would suffer grave hardship if the delay is not condoned and the exemption is denied to them only on this count. The Petitioner Institute, which is a charitable educational Institute, ought not to be foisted with such a liability because of the inadvertent error of its Chartered Accountant.

9. Considering the facts and circumstances of the case, we are of the view that the delay ought to be condoned. We accordingly quash and set aside the impugned order dated 25th February 2025 passed by Respondent No.1 under Section 119(2)(b) of the IT Act.

10. Now that the impugned order is quashed, we also hereby condone the delay on the part of the Petitioner in filing Form No.10BB.

11. Rule is made absolute in the above terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

12. 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.]**