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

WRIT PETITION NO.3254 OF 2025

Bhikha Behram Well Trust … Petitioner

Versus

The Commissioner of Income Tax (Exemptions) … Respondent

Mr. J.D. Mistri, Senior Advocate, a/w Dharan V. Gandhi for Petitioner.

Mr. Dinesh R. Gulabani, for Respondent - Revenue.

CORAM : M.S. Sonak &
Advait M. Sethna, JJ.

DATED : 22 September 2025

P.C.:-

1. Heard Mr Mistri, the learned Senior Advocate who appears with Mr Dharan Gandhi for the Petitioner and Mr Dinesh Gulabani for the Respondent.

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

3. At the outset, Mr Mistri states that the Petitioner, as a matter of abundant caution, had filed an Appeal against the impugned order dated 14 June 2025 before the Tribunal, and now he has instructions to withdraw this Appeal. Accordingly, we permit the withdrawal of the said Appeal bearing Income Tax Appeal No.5029/MUM/2025 before the Income Tax Appellate Tribunal. This Appeal, though, on the file of the Tribunal, shall now stand disposed of as withdrawn. An authenticated copy of this order must be placed before the Tribunal so that the Tribunal can record the formal order disposing of the said Appeal as withdrawn/disposed of.

4. The impugned order dated 14 June 2025 records that the Petitioner should have applied for registration under the provisions of Section 12A(1) (ac)(iii) instead of Section 12A(1)(ac)(ii). The Petitioner pointed out that this was an unintentional clerical error and therefore, their application may be treated as one made under sub-clause (iii) of the Income-Tax Act.

5. According to the impugned order, the Petitioner has been informed that such a correction cannot be manually permitted, nor is the software equipped to process it. On that short ground, the Petitioner's application for confirming the provisional registration has been rejected.

6. After hearing the learned counsel for the parties, we felt that this approach on the part of the Respondent was neither correct nor fair. On the only ground that the existing software cannot process such unintentional mistakes, the Petitioner's application should not have been rejected. The argument about the alternative remedy also does not appeal to us. Even if the alternate remedy is resorted to, the only defence of the Respondent is that they have no provisions to permit either manual or electronic correction. To resolve such an issue, we do not think that we should relegate the Petitioner to avail of any alternate remedies.

7. We believe that the Respondent should anticipate such situations and take effective steps to ensure that their software is equipped to handle them without forcing the parties to resort to the Court of Law. The software must align with statutory requirements or, at the very least, be flexible enough to resolve such issues without forcing citizens to approach the Courts. Some mechanism must be put in place to resolve issues arising out of unintended and often clerical errors.

8. Mr Gulabani submitted that the Petitioner has the option to apply afresh by quoting the correct provision under sub-clause (iii). He submits that if such an application is made, the Respondent, considering the peculiar facts of this case, will condone the delay and process the Petitioner's fresh application expeditiously and in accordance with law.

9. Based on the above assurance, Mr Mistri, the learned Senior Advocate for the Petitioner, states that the Petitioner will file the correct fresh application within two weeks from the date of uploading of this order. If such an application is filed, the Commissioner of Income Tax (Exemptions) must not only condone the delay in its filing as now stated, but must also dispose of this corrected application within four weeks of its receipt.

10. With the above directions, we dispose of this Petition. All contentions of all parties on merits are left open to be decided by the Commissioner of Income Tax (Exemptions). The Commissioner will have to hear the Petitioner, pass and communicate the reasoned order on the Petitioner's corrected application within a period now indicated.

11. The Rule is made absolute in the above terms. No costs.

12. All concerned are to act upon an authenticated copy of this order.

(Advait M. Sethna, J) **(M.S. Sonak, J.)**