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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3539 OF 2025

St. Anne's School, Pali Hill, Mumbai

.. Petitioner

Versus

Commissioner of Income Tax (Exemptions),
Mumbai & ors.

.. Respondents

*Mr. Sukhsagar Syal, with Mr. Sameer Dalal, Advocates for the
Petitioner.*

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

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE: OCTOBER 14, 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 18th June, 2025 passed by Respondent No. 1 rejecting the Petitioner's application for condonation of delay in filing Form No. 10 for Assessment Assessment Year 2016-17. The other relief sought is a direction to

Respondent No. 1 to condone the delay and allow the Petitioner's claim for accumulation of Rs. 10,08,118/- in terms of section 11(2) of the Income-tax Act, 1961.

3. The present matter pertains to Assessment Year 2016-17. The Petitioner filed its return of income on 17th October, 2016 and filed its revised return of income on 16th March, 2018. An intimation under section 143(1) was issued on 17th March 2018 denying the claim for exemption made by the Petitioner-Trust under section 11 of the IT Act on the ground that Form No. 10 should have been filed before the due date of filing of the original return. The Petitioner uploaded Form No. 10 on the Income Tax portal on 24th March, 2018. The Petitioner preferred an application for condonation of delay before Respondent No. 1 under section 119(2)(b) of the Income-tax Act on 13th March, 2020. In this application, the Petitioner sought for a condonation of delay of 523 days in filing Form No. 10.

4. 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. Respondent No. 1 came to the conclusion that there was no proof of the bald assertions made by the Petitioner regarding the delay in filing Form No. 10.

5. 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 of the Trust inadvertently did not file Form No. 10 along with the return of income. Though this assertion was made before Respondent No. 1, no Affidavit of the Chartered Accountant was filed before him. However, in this Writ Petition, the Petitioner has annexed the Affidavit of the Chartered Accountant dated 1st August, 2025 (page 172 of the paper book) where the Chartered Accountant has categorically stated that the Trustees of the Petitioner-Trust passed a resolution to accumulate a sum of Rs. 10,08,118/- in a meeting held on 29th September, 2016. They also signed Form No. 10 in the paper format which was tabled at the said meeting.

6. In fact, in the affidavit, it is stated that while presenting the accounts for the A.Y. 2016-17, the Chartered Accountant brought to the attention of the the Trustees the fact that the Trust has to spend the required amount of 85% of the receipts and there was a shortfall in the expenditure on the objects, amounting to Rs. 10,08,118/-. In this affidavit, the Chartered Accountant further stated that though he filed the return of income on 17th October, 2016 (before the due date), he inadvertently missed out on the submission of Form No. 10 in the electronic format, as this was a recently introduced requirement.

7. Having carefully perused the Affidavit filed by the Chartered Accountant of the Petitioner-Trust, we are of the view that the Petitioner-Trust would suffer grave hardship if the delay is not condoned and the exemption is denied to them only on this count. The Petitioner-Trust, which is a charitable Trust, ought not to be foisted with such a liability because of the inadvertent error of its Chartered Accountant.

8. 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 18th June, 2025 passed by Respondent No. 1 under section 119(2)(b) of the IT Act.

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

10. 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.

11. 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.]