IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2025

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.20515 of 2025
and
W.M.P.Nos.23165 and 23166 of 2025

St.Thomas Charitable Trust,
Rep. by Managing Trustee Aby Paul,
No.1, Syrian Church Road,
Collector Nagar,
Anna Nagar West Extension,
Chennai - 600 101. ...Petitioner

Vs.

The Commissioner of Income Tax (Exemption),
Income Tax Office, Ministry of Finance,
Government of India,
III Floor, Annexe Building,
121, Mahatma Gandhi Salai,
Chennai - 600 034. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent pertaining to DIN & Order No.ITBA/COM/F/17/2024-25/1074117224(1) dated 06.03.2025 and direct the respondent to accept the Form-10B filed by the petitioner on 26.05.2021 and quash the same.

For Petitioner : Mr.Richardson Wilson

For Respondent : Mr.V.J.Arul Raj
Senior Standing Counsel
and Ms.Anu Ganesan
Junior Standing Counsel

ORDER

This Writ Petition has been filed challenging the impugned order dated 06.03.2025 passed by the respondent and to quash the same.

2. The learned counsel for the petitioner would submit that the petitioner has to file audit report 30 days prior to the filing of ITR. Due to the second wave of covid-19, the petitioner was unable to file audit report on time for the assessment year 2020-2021. In the present case, the time limit for filing ITR was extended upto 15.02.2021 and the petitioner has filed the ITR and Form 10-B on 27.05.2021 and 26.05.2021 respectively, along with a request to condone the delay of 131 days in filing the ITR and the audit report. However, the respondent has rejected the application on the sole ground that the application is barred by limitation. Hence, the present Writ Petition.

3. The learned Senior Standing Counsel for the respondent would submit that since the application was filed beyond the period of limitation, the same was rejected by citing the CBDT Circular No.16 of 2024 issued on 18.11.2024.

4. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, in the present case, the petitioner is supposed to file Form 10-B on or before 15.02.2021, but he filed the ITR on 27.05.2021 and Form 10-B on 26.05.2021 with a delay of 131 days due to the second wave of covid-19. It is useful to extract Clause 3 of the Circular No.16 of 2024 dated 18.11.2024, which reads as follows:

> *"**3**.No application for condonation of delay in filing of Form No.9A/10/10B/10BB shall be entertained beyond three years from the end of the assessment year for which such application is made. The time limit for filing of such application within three years from the end of the assessment year will be applicable for application filed on or after the date of issue of this Circular. A condonation application should be disposed of, as far as possible, within six months from the end of the month in which such application is received by the Competent Authority."*

5. A reading of the above clause would make it clear that no application for condonation of delay shall be entertained beyond the period of 3 years from the end of the assessment year. In the present case, the application has to be filed on or before 31.03.2024, but the petitioner has filed in the month of January 2025.

6. Section 119(2)(b) of the Income Tax Act, 1961, has not mentioned any time limit for filing the application for condonation of delay. In the present case, CBDT Circular was issued stating that the delay in filing Form 10-B can be condoned upto 365 days, which is beyond the scope of provisions in the law. When the Act has not fixed any time limit, but fixing the time limit by virtue of the Circular is not in accordance with law, then the scope of the provisions of law has to be followed.

7. In such view of the matter, this Court is of the view that the reasons assigned by the petitioner for the delay of 131 days in filing the Form 10-B appears to be reasonable. Therefore, this Court is inclined to set aside the impugned order passed by the respondent dated 06.03.2025 and condone the delay of 131 days in filing the Form 10-B for the assessment year 2020-2021 before the respondent.

8. Accordingly, this Writ Petition is allowed and the impugned order dated 06.03.2025 passed by the respondent is set aside and the delay of 131 days in filing the Form 10-B for the assessment year 2020-2021 before the respondent is condoned. No costs. Consequently, connected Miscellaneous Petitions are closed.

27.06.2025

Speaking order / Non-Speaking order
Index : Yes / No
Neutral Citation : Yes / No

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To

The Commissioner of Income Tax (Exemption),
Income Tax Office, Ministry of Finance,
Government of India,
III Floor, Annexe Building,
121, Mahatma Gandhi Salai,
Chennai - 600 034.

KRISHNAN RAMASAMY, J.,

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W.P.No.20515 of 2025

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