IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.34319 of 2025
and
W.M.P.Nos. 38471 & 38474 of 2025

The Property Association of Baptist
Churches Private Limited
Represented by its President
Rev.Dr.J.M.Franklin
S/o. Late Mr.Joseph
aged 84 years,
903, Tower E2, Ekanta North Town,
Stephenson Road,
Perambur – 600 012. ... Petitioner

Vs.

1. The Commissioner of Income Tax (Exemption)
Aayakar Bhawan-Annexe Building
No.121, Mahatma Gandhi Road
Nungambakkam, Chennai – 600 034.

2. The Central Processing Circle
1st Floor, Prestige Alpha No. 48/1 and 48/2,
Beratenaagrahara Begur, Hosur Road,
Uttarahalli Hobli,
Bengaluru – 560 100.

3. The Assessment Unit,
Income Tax Department
National Faceless Assessment Centre,

4th Floor, Mayur Bhawan,
Connaught Lane, Connaught Place,
New Delhi – 110 001. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in DIN and Order No: ITBA/COM/F/17/2024-25/1072101380(1) dated 12.01.2025 order u/s. 119(2)(b) of the IT Act, 1961 on the file of the first respondent for the A.Y. 2022-23 and quash the same.

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For Petitioner : Mr. G.Baskar

For Respondents : Mr. V.J.Arul Raj
Senior Standing Counsel
for M/s. Anu Ganesan
Junior Standing Counsel

ORDER

In this Writ Petition, the petitioner has challenged the impugned order passed by the first respondent / Commissioner of Income Tax (Exemption), Chennai dated 12.01.2025.

2. By the impugned order, the petitioner's application for condonation of delay in filing Form-10B dated 03.10.2023 has been rejected on the ground that

there has been an inordinate delay in filing the same. The operative portion from the impugned order dated 12.01.2025 is extracted below:-

> *"**4. Decision**:*
>
> *I have carefully examined the facts of the case and the submissions of the assessee. The CBDT vide circular No.2/2020, dated 03.01.2020 in para 5 and 6 has directed as under:- "it has also been decided by the CBDT that where there is delay of upto 365 days in filing Form No.10B for the AY 2018-19 or for any subsequent Ays, the Commissioners of Income Tax are hereby authorised to admit such belated applications of condonation of delay under section 119(2) of the IT Act and decide on merits.*
>
> *The Commissioner of Income Tax shall, while entertaining such belated applications in filing Form No.10B, satisfy themselves that the assessee was prevented by reasonable cause from filing such application within the stipulated time.*
>
> *From the above it is seen that the Commissioner of Income Tax is competent to condone the delay, only if he is satisfied that the assessee was prevented by reasonable cause from filing such application within the stipulated time."*

4.1 The submissions given by the assessee are carefully perused. The reason submitted by the assessee in the petition for the delay as inadvertent omission of the acceptance of the audit report is very generic in nature. The assessee/Chartered Accountant has filed the Return of Income within due date u/s 139(4A), but the assessee has failed to file the Audit report within the due date. The Chartered Accountant has twice uploaded the audit report and sent for acceptance or e-verification by the assessee Trust. But the authorised signatory of the Trust has repeatedly ignored the request of the chartered Accountant. Non filing of Form 10B is a bonafide error.

4.2 The ITR can be prepared only after finalization of accounts by the Chartered Accountant of the Trust. The preparation and E-filing of Audit Reports is a statutory responsibility of the Chartered Accountant / Management of the Trust. When the ITR has been filed on 06.11.2022 u/s 139(4A) by the assessee Trust, it is not known what prevented the assessee / Chartered Accountant from filing the form 10B within the due date. Even after receipt of intimation u/s 143(1) raising a demand for belated filing of Form 10B, the authorised signatory of the trust did not care about the demand raised by the CPC. After receipt of notice u/s 143(2), the assessee filed the Form 10B.

4.3 Even in respect of condonation proceedings, the assessee has not complied to the letters/notices sent from this Office and was seeking adjournment continuously.

4.4 The above instances shows the casual approach and careless attitude of the applicant towards statutory compliance. Hence,t eh reasons for delay submitted by the applicant was not found to be cogent and sufficient in explaining reasonable cause which prevented the assessee from filing Form 10B within the prescribed due date.

4.5 The legislature has provided time limits for certain obligation under the act and these time limits have to be observed to be able to claim exemption u/s 11 and 12. The statutory compliances has to be duly complied with and the assessee should have ensured that adequate steps are taken, so that the law is complied with well within time. The same had to be looked after or adequately managed by the management of the Trust or Chartered Accountants who has been made responsible for statutory compliances.

5. In view of the facts and circumstances cited above, it is very clear that the assessee has not put forth *any reasonable cause beyond its control which prevented the assessee from filing Form 10B on the due date specified in the Act. Hence, the applicant's petition filed on 03.10.2023 seeking condonation of delay under Section 119(2)(b) in filing Form 10B for the AY 2022-23 is hereby rejected."*

3. The dispute pertains to the assessment year 2022-2023. The petitioner claims that the petitioner is entitled for exemption under Section 11 of the Income tax Act 1961. To avail the benefit of Section 11 of the Income Tax Act, the petitioner has to comply with the conditions specified in Section 12-A of the Income Tax Act.

4. As per Section 12-A(1)(b)(ii), where the total income of a trust or institution has computed under the Act without giving effect to any provision of Sections 11 and 12 exceeds the maximum amount, which is not chargeable to income tax in any previous year.

"(i) the books of account and other documents have been kept and maintained in such form and manner and at such place, as may be prescribed; and

> *(ii) the accounts of the trust or institution for that year have been audited by an accountant defined in the Explanation below sub-section (2) of Section 288 before the specified date referred to in Section 44AB and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars, as may be prescribed;"*

5. Explanation to Section 44AB defines the expression specified date as follows:-

> *"(ii) specified date", in relation to the accounts of the assessee of the previous year relevant to an assesment year means date one month prior to the due date for furnishing the return of income under sub-section (1) of section 139."*

6. As per Section 44AB, the specified person has to get his accounts of such previous year audited by an accountant before the specified date as defined under Clause (ii) of explanation and furnished by the aforesaid date. The report of such audit in the prescribed form duly signed and verified by such

accountant and setting forth such particulars as may be prescribed.

7. In this case, the petitioner was required to upload Form 10-B as per Section 12A(1)(b), one month before the issue date for filing the return under Section 139(1) of the Income Tax Act 1961.

8. The specific case of the petitioner is that the Central Board of Direct Taxes by an circular dated 26.10.2022 had also extended the period for filing the return for the assessment year 2022-2023 to 07.11.2022 and therefore, the petitioner was required to have uploaded Form 10-B on or before 07.10.2022.

9. In this case, the petitioner had assigned the chartered accountant on 30.09.2022 to upload Form 10-B in E-portal and indeed, the chartered accountant had also uploaded the same on 30.09.2022. It is however submitted that after the petitioner filed the return of income on 06.11.2022 as per Section 139(1) read with the explanation given by the Central Board of Direct Tax on 26.10.2022, the 1st respondent inadvertently rejected the audit report on 03.12.2022 which was earlier uploaded on 30.09.2022. It is submitted that this mistake was immediately brought to the notice of the chartered accountant and also attempt to upload the audit report in Form 10-B once again on 03.12.2022.

10. The learned counsel for the petitioner submits that it is in this background the petitioner approached the respondent once again on 30.09.2023 with a request for condonation of delay of 358 days in uploading Form 10-B on 30.09.2023 before the first respondent.

11. The learned Standing Counsel for the respondents on the other hand would submit that there is an inordinate delay in filing the application for condonation of delay of 358 days in filing Form 10-B. It is submitted that since Section 12-A mandates uploading of audit report in Form 10-B and since there was a huge delay, without proper explanation, the delay has been rightly rejected by the first respondent vide impugned order. It was therefore submitted that the Writ Petition is liable to be dismissed.

12. He would further submit that the petitioner's return of income filed on 06.11.2022 was also processed under Section 143(1) of the Income Tax Act on 31.03.2023 and thereafter, an assessment order was also passed on 23.03.2024. He would further submit that the petitioner has also filed an appeal against the aforesaid assessment order dated 23.02.2024 and therefore, on this ground also, the Writ Petition is liable to be dismissed.

13. I have considered the submissions made on either side.

14. The petitioner has claimed the benefit of exemption under Section 11 of the Income Tax Act which is confined to income from property held for charitable or religious purpose. The petitioner claims to be a trust eligible for the exemption under Section 11 of the Act. To avail the benefit of Section 11 of the Income Tax Act 1961, an assessee is required to comply with the requirement of Section 12-A of the Income Tax Act 1961. The failure on the part to upload the audit report as is contemplated under Section 12A(1)(b)(ii) read with Section 44AB should not given in the legitimate grant of the benefit, if an assessee is otherwise entitled to the benefit of Section 11 of the Act.

15. In this connection, I draw attention to the Judgment of the Hon'ble Supreme Court in ***Commissioner of Sales Tax Vs. Auriya Chambers of Commerce, (1986) 3 SCC 50*** wherein it had been held that the procedures are rule makers, handmaids of justice and not mistress of law.

16. Therefore, the impugned order seeking to reject the application for filing condonation of delay in filing / uploading Form -10B is liable to be

interfered with.

17. In view of the above, the impugned order is set aside and the consequential relief sought for in this Writ Petition is allowed as prayed for. The petitioner is working out remedy against the assessment order in manner known to law.

06.10.2025

vsg

Neutral Citation : Yes / No

To

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C.SARAVANAN, J.

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