IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CM-4576-CWP-2025 in/and
CWP-29878-2024
Date of Decision: 30.07.2025

LORD RAMA EDUCATIONAL WELFARE SOCIETY ....PETITIONER

Versus

COMMISSIONER OF INCOME TAX (EXEMPTIONS) .....RESPONDENT

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI

Present:- Mr. Nikhil Goyal, Advocate (Through Video Conferencing) and
Ms. Kajal Garg, Advocate for the petitioner.

Mr. Varun Issar, Sr. Standing Counsel with
Ms. Pridhi Sandhu, Advocate for the respondent.

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DEEPAK SIBAL, J. (Oral)

1. Through the instant petition, challenge is made to the order dated 08.07.2024, passed by CIT Exemptions, Chandigarh (for short-CIT), dismissing the petitioner's application, filed under Section 119(2)(b) of the Income-tax Act, 1961 (for short-the Act), through which application the petitioner had sought condonation of delay of 151 days in the filing of Form 10B for the assessment year 2022-23.

2. The facts in brief which are required to be noticed for adjudication of the instant petition are that on 30.10.2022, the petitioner e-filed its Income tax return for the assessment year 2022-23, claiming therein exemption under Section 11 of the Act. The income tax return was filed well in time and was also processed resulting in issuance of intimation under Section 143(1) of the Act raising therein a demand from the petitioner to the tune of Rs.1782840/-.

3. On receipt of the afore demand, the petitioner realized that it had not been granted exemption under Section 11 of the Act because the audit report submitted by the petitioner was in Form 10BB instead of the required Form 10B. Realizing its mistake, which crept in on account of an oversight by the petitioner's auditor, an audit report in Form 10B was then filed by the petitioner. The same was accompanied by an application seeking therein condonation of delay of 151 days in the filing of Form 10B. Several grounds were detailed in the application as per which the petitioner sought condonation of the said delay.

4. Through order dated 08.07.2025, the CIT dismissed the petitioner's application for condonation of delay in the filing of Form 10B on the ground that the petitioner was a habitual late filer because for the assessment years 2020-21 and 2021-22 also there had been delay on the part of the petitioner in the filing of Form 10B. The order of the CIT dated 08.07.2024 is the subject matter of challenge through the instant petition.

5. Learned counsel for the parties have been heard and with their able assistance the record of the case has also been perused.

6. Section 119(2)(b) of the Act is reproduced below for ready reference:-

> *"(2) Without prejudice to the generality of the following power,-*
> *(b) the Board may, if it considers it desirable or expedient so to do* ***for avoiding genuine hardship*** *in any case or class of cases, by general or special order, authorize any income-tax authority, not being [a Joint Commissioner (Appeals) or] a Commissioner (Appeals) to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law."*

7. As per afore quoted provision, for avoiding genuine hardship, the Joint Commissioner (Appeals) or Commissioner (Appeals), as the case may be, can admit a claim for exemption after the expiry of the period specified under the Act and thereafter, deal with such claim on its merit, in accordance with law.

8. It is not disputed that the petitioner had filed its income tax return for the assessment year in question well in time through which it had claimed exemption under Section 11 of the Act and that such exemption was denied because its income tax return was accompanied by Form 10BB instead of the required Form 10B. When through an order under Section 143(1) of the Act, a demand was made from the petitioner it realized that it had not been granted the claimed exemption and further inquiries revealed that the reason thereof was submission of by its Auditor Form 10BB instead of Form 10B. To overcome this objection, the petitioner immediately filed

the required Form 10B along with an application seeking condonation of delay of 151 days in its filing.

9. In the application filed by the petitioner seeking therein condonation of delay, the petitioner had raised the following six grounds:-

> "1. The ITR and Audit Report in Form 10BB for the year under consideration was filed in time u/s 139(1) i.e. before the due date of filing of Income Tax Return and audit report. The due date of filing of IT was 31.10.2022 and the due date of filing of Audit report in Form 10BB was 30.09.2022.
>
> 2. The benefit of exemption u/s 11 was duly claimed in the Income Tax Return and Form 10BB.
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> 3. There is no major difference in the contents of Audit report i.e. Form 10B and Form 10BB
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> 4. The filing of audit report in the prescribed form 10B is the responsibility of the Auditor. However, due to clerical mistake on the part of the Auditor, Audit report in Form 10BB was filed instead of Form 10B on 22.09.2022 vide acknowledgement no.519567690220922.
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> 5. The assessee has now filed the Form No.10B on 07.03.2023. But there is a delay of 158 days counted from 30.09.2022. A copy of said e-filed Form 10B is attached herewith.
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> 6. The total income/Receipt of the society for the year as per the audited Balance Sheet and Profit & Loss account is Rs. 5152067 (i.e. less than Rs.1 Cr) and applied wholly and exclusively to the objects for

which it is established for the purpose is Rs. 5189999 which in turn a Deficit/loss of Rs.37932 to the society."

10. A perusal of the impugned order reveals that while rejecting the petitioner's application for condonation of delay, none of the afore grounds have even been considered by the CIT.

11. A perusal of the impugned order further reveals that the only reason for rejecting the petitioner's prayer for condonation of delay is because for the assessment years 2020-21 and 2021-22 also the petitioner had submitted Form 10B after a delay of 958 days and 566 days respectively.

12. Delay on the petitioner's part in filing of Form 10B for the earlier assessment years could not have made the reason for not condoning the delay in the filing of Form 10B for the assessment year in question. The reasons/hardship offered by the petitioner for the particular assessment year was required to be considered independent of the petitioner's past conduct especially in the facts of the present case where the delay in the filing of Form 10B for the assessment years 2020-21 and 2021-22 had been condoned by the Principal Chief Commissioner of Income Tax (Exemptions), New Delhi through orders dated 27.01.2025 and 27.12.2024, respectively.

13. In the light of afore discussion, we find that the impugned order is unsustainable. Resultantly, the instant petition is allowed and the impugned order dated 08.07.2024 (Annexure P-7) passed by the CIT is set aside with liberty to the CIT to consider and decide, through passing of a reasoned order, the petitioner's application for condonation of delay, filed

under Section 119(2) of the Act, for the assessment year 2022-23, in accordance with law.

[DEEPAK SIBAL]
JUDGE

[LAPITA BANERJI]
JUDGE

30.07.2025
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Whether speaking/reasoned: *Yes/No*
Whether reportable: *Yes/No*