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

WRIT PETITION NO. 3822 OF 2026

Have A Heart Foundation ..Petitioner

V/s.

The Commissioner of Income Tax Exemptions & Ors. ..Respondents

---

Mr. Altamash Qureshi a/w Petrushka Dasgupta, Mr. Krishna Baruah, Mr. Kewal Buddhdev and Ms. Janhavi Kalpesh Pise i/b Link Legal for Petitioner.

Mr. Prathmesh P. Bhosle for Respondents.

CORAM : B. P. COLABAWALLA AND
FARHAN P. DUBASH, JJ.

DATE : 9th OCTOBER 2026

P.C.:

1. Rule. Respondents waive service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition is filed challenging the order dated 8th May 2026 passed by Respondent No. 1, rejecting the application filed by the Petitioner under Section 119(2)(b) seeking condonation of delay in filing Form 10B. The delay is substantial, namely, approximately 3,062 days. The delay has been sought to be explained by a detailed list of dates and events tendered

SHUBHAM SHESHRAO GADHAVEPATIL
Digitally signed by SHUBHAM SHESHRAO GADHAVEPATIL
Date: 2026.10.13 17:34:51 +0530

by the Petitioner to the Court. For the sake of convenience, the said list of dates and events is reproduced hereunder:

S. No.	Date	Event	Exhibit
1.	01.04.2013	The Petitioner was constituted *inter alia* with the object of funding life-saving cardiac surgeries for underprivileged children born with congenital heart disease. Since its constitution, the Petitioner has funded surgeries and cardiac interventions for over 1,050 underprivileged children across India, at an average cost of approximately Rs. 1,75,000/- per child, in institutional partnership with leading hospitals pan India. In FY 2025-26, the Petitioner facilitated cardiac surgeries for 44 children at an aggregate cost of Rs. 85,41,331/-, of which the Petitioner directly contributed Rs. 48,41,829/-	Exh. B, Pg. 66 Exh. F, Pg. 86 Exh. E, Pg. 81
2.	20.09.2017	CA-1 (the then Chartered Accountant of the Petitioner) conducted the audit of the Petitioner's accounts for FY 2016-17 (A.Y. 2017-18) and physically signed the Audit Report in Form No. 10B within the prescribed statutory timeframe. The physical Form 10B was handed over to the Petitioner.	Exh. M, Pg. 181
3.	25.10.2017	Petitioner filed its Return of Income in Form ITR-7 for A.Y. 2017-18 well within the statutory due date of 07.11.2017 under Section 139(1) of the Income Tax Act, 1961. CA-1 had not uploaded the signed Form No. 10B on the Income Tax e-filing portal but did not inform the Petitioner that the electronic upload remained pending. CA-1 discontinued his professional association	Exh. L, Pg. 155.

S. No.	Date	Event	Exhibit
		with the Petitioner. Being a small charitable trust with no in-house tax team and having received the physically signed Form 10B from CA-1, the Petitioner had a bona fide belief that all compliances were complete.	
4.	26.03.2019	The Income Tax Department issued Intimation under Section 143(1) of the Income Tax Act, 1961 for A.Y. 2017-18. Since Form 10B was not on record, the department denied the exemption under Sections 11 and 12 entirely, making the gross income of Rs. 98,85,032/- taxable. The intimation raised a demand of Rs. 37,09,180/-. This was the first time the Petitioner became aware of the non-uploading of Form 10B.	Exh. N, Pg. 185
5.	Post 26.03.2019	Upon receipt of Section 143(1) Intimation, the Petitioner directed the successor Chartered Accountant (CA-2) to rectify the compliance lapse by belatedly uploading Form 10B for A.Y. 2017-18. CA-2 commenced the process of retrieving records.	
6.	22.05.2019	CBDT issued Circular No. 10/2019 governing condonation of delay in filing Form No. 10B. This circular was issued subsequent to the Petitioner's receipt of the Section 143(1) Intimation and authorized the Commissioner of Income-tax to admit belated applications for condonation for A.Y. 2016-17 and A.Y. 2017-18, provided the assessee was prevented by reasonable cause. The circular notes that *"3. Representations have been received by the Board/field authorities stating that Form no. 10B could*	Exh. H, Pg. 146

S. No.	Date	Event	Exhibit
		not be filed along with the return of income for AY 2016-17 and AY 2017-18. It has been requested that the delay in filing of Form no. 10B may be condoned."	
7.	03.01.2020	CBDT issued Circular No. 2/2020 further liberalizing the condonation regime for Form No. 10B.	Exh. I, Pg. 148
8.	March 2020	Nationwide lockdown imposed due to COVID-19 pandemic. Professional services, including the work of Chartered Accountants, were severely disrupted. CA-2's efforts to rectify the Form 10B filing lapse for A.Y. 2017-18 were impeded.	-
9.	28.04.2021	CA-2 tragically passed away during the second wave of the COVID-19 pandemic. CA-2 had successfully filed Form 10B for AY 2020-21 (filed on 15.01.2021), which reinforced the Petitioner's bona fide belief that CA-2 had also completed the filing for AY 2017-18 before his death	Exh. O, Pg. 198
10.	2021-2025	Subsequent filings of Form No. 10B by the Petitioner for till A.Y. 2024-25 were all successfully processed. This reinforced the Petitioner's bona fide belief that CA-2 had rectified the A.Y. 2017-18 Form 10B e-filing delay before his demise.	Compliance record at Para 9, Page 32
11.	18.11.2024	CBDT issued Circular No. 16/2024 further liberalizing the condonation regime for filing Form No. 10B.	Exh. J, Pg. 150
12.	2025	During a routine health-check of its historical tax records, the Petitioner discovered the outstanding Form 10B filing for A.Y. 2017-18 and the subsisting demand.	-

S. No.	Date	Event	Exhibit
		The discovery was the direct result of the Petitioner's good-faith efforts to keep its records clean, not a response to any departmental notice.	
13.	29.08.2025	Petitioner filed an application under Section 119(2)(b) of the Income-tax Act, 1961, seeking condonation of delay in filing Form 10B for A.Y. 2017-18. The Petitioner was advised that since the form pertained to an older assessment year, the portal would not permit a direct upload without condonation.	Exh. Q, Pg. 204
14.	08.12.2025	Respondent No. 1 issued a notice calling for further submissions from the Petitioner in respect of the condonation application.	Exh. R, Pg. 208
15.	13.12.2025	Petitioner filed its reply to the said notice, providing detailed submissions and supporting documentation.	Exh. S, Pg. 210
16.	26.12.2025	Form 10B for AY 2017-18 was fully prepared and generated on the Income-tax portal with the assistance of the Petitioner's new Chartered Accountant. However, the Petitioner was under a bona fide belief of the advise received that final online submission could only be made after the condonation application was heard and approved. The Petitioner withheld submission solely due to this procedural misunderstanding.	Exh. T, Pg. 214
17.	14.03.2026	Upon receiving clarification that the form could be submitted, the Petitioner immediately completed the electronic upload of Form 10B for AY 2017-18. Electronic upload and filing of Form No. 10B for A.Y. 2017-18 was completed on the Income-tax portal	Exh. U, Pg. 218

S. No.	Date	Event	Exhibit
18.	08.05.2026	Respondent No. 1 passed the Impugned Order rejecting the Petitioner's condonation application on the ground that the delay of 3,062 days was 'inordinate', without applying the 'reasonable cause' test prescribed by the CBDT Circulars, and without considering the bona fide circumstances, the COVID-19 disruption, the death of CA-2, or the Petitioner's compliance record.	Exh. G, Pg. 121 Typed Copy, Pg. 133

3. Considering the peculiar facts of the present case, we are satisfied that the delay has been sufficiently explained by the Petitioner. We, therefore, condone the said delay. However, considering that the delay is substantial, the same is condoned on the condition that the Petitioner pays costs of Rs. 25,000/- to the Army Central Welfare Fund through RTGS whose bank details are as follows:

Name of the Fund	Army Central Welfare Fund
Bank	Union Bank of India
Branch	Sarafa Market, Chandni Chowk, Delhi – 110006
IFSC	UBIN0530778
Account No.	520101236373338

4. These costs shall be paid by RTGS in the account mentioned above within a period of one week from the date of uploading of this order on the website of the Bombay High Court. It is needless to clarify that if the said costs are not paid, the above Writ Petition shall stand dismissed without further

reference to the Court. In the event, the costs are paid within the stipulated period, the impugned order dated 8th May 2026 shall stand quashed and set aside, and the delay of 3,062 days in filing Form 10B for Assessment Year 2017-18 shall stand condoned. Once the delay is condoned as mentioned above, the Respondents shall once again process the Petitioner's Returns in accordance with law by giving effect to this order on the basis that Form 10B has been filed within time.

5. Rule is made absolute in the aforesaid terms and the above Writ Petition is also disposed of in terms thereof.

6. 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.

(FARHAN P. DUBASH, J.) (B. P. COLABAWALLA, J.)

Shubham Gadhavepatil