IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 281 OF 2026

Model Action for Rural Change, Pune .. Petitioner

Versus

CIT Exemption, Pune .. Respondent

***Mr. Swapnil Newaskar**, Advocates for the Petitioner.*

***Mr. A. K. Saxena**, Advocates for the Respondent/Revenue.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.

DATE: MARCH 16, 2026

P. C.

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

2. The above Writ Petition has been filed challenging the legality of the order dated 27th February 2025 passed under Section 119(2)(b) of the Income Tax Act, 1961 (for short "***I. T. Act***") for A.Y.2020-2021. By the impugned order, the CIT (Exemptions), Pune (Respondent) rejected the Application filed by the Petitioner seeking a condonation of delay in filing

Form 10B by relying upon a Circular issued by the CBDT, being Circular No.16/2024 dated 18th November 2024. This Circular stipulates that no Application for delay in filing of Form No.9A/10/10B/10BB shall be entertained beyond the period of three years from the end of the Assessment Year for which such Application is made. The Circular also makes it clear that this time limit would apply for any Applications that are filed on or after the date of the Circular, namely, 18th November 2024. The CIT (Exemptions) dismissed the Application filed by the Petitioner under Section 119(2)(b) of the I. T. Act relying upon this Circular because admittedly, the application seeking condonation of delay was filed after 18th November 2024 and was beyond the period of three years from the end of the Assessment Year in question. The second challenge laid in the above Petition is to paragraph 3 of the Circular itself, which mandates that no Application for condonation of delay shall be entertained if it is beyond the period of three years from the end of the Assessment Year in question.

3. The Petitioner is a trust that operates in Rural Development, Irrigation Setup and is registered under the Bombay Public Trust Act, 1950. The Petitioner has been carrying out Drought Reduction activities since 1997. It is registered under Section 12AA of the I. T. Act dated 29th March, 2004.

4. The year under consideration is AY 2020-2021. The due dates to file the return of income were extended from time to time, due to difficulties arising out of the COVID-19 pandemic and the lockdowns imposed.

5. The Petitioner filed its return of income within the extended time limit of 15th February 2021 offering "NIL" income to tax by claiming benefits under Section 11 of the I.T. Act. For this purpose, the Petitioner was required to conduct an audit of its books of account and submit a statutory Audit Report under Section 12A(1)(b) of the I. T. Act in Form No.10B. The Petitioner had filed its audit report along with the return income on 15th February 2021.

6. Subsequently, the Petitioner filed an application dated 5th February, 2025 in the office of Commissioner of Income Tax (exemptions), Pune [hereinafter in short CIT(E), Pune] requesting for condonation of delay under Section 119(2)(b) of the I. T. Act, 1961 in filing of Audit Report in Form No. 10 B for A.Y 2020-2021. It was explained that the Petitioner filed the return of income on 15th February 2021 and on the same day it also filed Form 10B. It was submitted that the due date to file the audit report was one month prior to the date of filing of the return of income and accordingly, the report was filed late by 31 days. The Petitioner submitted that such delay occurred

because of difficulties faced due to the COVID lockdown. Further, it was also submitted that AY 2020-21 was the first year, when the due date to upload the audit report was preponed by one month from the date of filing of the return of income. This change went inadvertently unnoticed. It was submitted that the return was processed under Section 143(1)(a) and the demand was raised of Rs. 78,51,920/- including interest, which has caused serious hardships to the Petitioner.

7. This application for condonation of delay was disposed of vide the impugned order dated 27th February 2025, and which is challenged in the present petition.

8. The Respondent has filed an reply affidavit affirmed on 9th March 2026. In the said affidavit, it has been stated that the restriction contained in paragraph 3 of the Circular No.16/2024 dated 18th November 2024 to entertain any application for condonation of delay in filing of Form 9A/10/10B/10BB would apply only to field authorities. If any application is to be filed beyond three years from the end of the relevant Assessment Year, then such an application can be filed before the Central Board of Direct Taxes ('CBDT'). It is the CBDT who will deal with such applications filed beyond the period of three years and that the Assessees are not remediless. Accordingly,

it has been contended in the reply affidavit that the Petitioner may be directed to file an application before the CBDT for resolution of its grievance.

9. In answer to this contention, Mr. Swapnil Newaskar, the learned counsel for the Petitioner, submitted that instead of sending the Petitioner to the CBDT, this Court can condone the delay in filing of Form 10B. He submitted that the delay in filing of Form No. 10B is only 31 days and that the Petitioner has given bonafide reasons for such delay. It was also submitted that the same was due to a change in law, which was effective from the said year and also due to the difficulties arising out of the lockdown imposed due to the COVID pandemic. In such circumstances, he prayed that the delay in filing of Form No. 10B be condoned by this Court itself, instead of relegating the Petitioner to approach the CBDT.

10. On the other hand, Mr. Saxena, the learned Counsel for the Respondent submitted that no infirmity can be found with the impugned order dated 27.02.2025 as the Respondent has acted in accordance with the CBDT Circular No. 16 of 2024 dated 18th November, 2024. He submitted that the Petitioner has filed the application for condonation of delay in filing in Form 10B after a period of 3 years from the end of the relevant Assessment Year. He further submitted that the Petitioner ought to have filed its

application within a reasonable time from the filing of the Form 10B. He further submitted that the Petitioner cannot claim ignorance of law. He submitted that taking into consideration the difficulties caused due to the Covid-19 pandemic, the due dates for filing return and tax audit report were extended from time to time. On the basis of the reply affidavit of Respondent No.1, he prayed that the Petitioner be relegated to the CBDT which will hear the Petitioner's application for condonation of delay in filing Form 10B as per Circular dated 18th July 2025 being Exhibit-R-2 to the reply affidavit.

11. We have heard the learned counsel for the parties.

12. We find that due to the clarification issued by the Respondent that an application for condonation of delay in filing of Form 9A/10/10B/10BB beyond three years from the end of the relevant Assessment Year can be made before the CBDT, there is no further requirement for us to deal with the challenge to paragraph 3 of the Circular No.16/2024 dated 18th November 2024.

13. Having said that, in the facts of the present case, we do not deem it appropriate to send the Petitioner to the CBDT. This is because we are satisfied that there is a reasonable cause for delay of 31 days in filing of Form

No. 10B by the Petitioner. Firstly, the delay is merely of 31 days. Further, we note that AY 2020-21 was the first year when the due date to file the audit report was preponed by one month. Earlier, the time limits to upload the audit report in From 10B coincided with the due date to file the return of income. However, with effect from AY 2020-21, the due date to file the audit report in Form 10B was preponed by one month. In other words, the audit report was required to be filed one month before the due date to file the return of income. The same was inadvertently not noticed by the Petitioner or the Chartered Accountant. There is no reason to disbelieve such an explanation as the audit report in Form No. 10B was admittedly filed along with the return of income. This is coupled with the fact that during such time, there was a lockdown announced by the Government. It should not be forgotten that we are dealing with a period when the COVID 19 pandemic was still prevalent. The administrative office of the Petitioner were also not working continuously in the year 2020-21 because of the lockdown. It is a known fact that during such time, time limits for various compliances were extended by the CBDT from time to time. So much so that even the Hon'ble Supreme Court had *suo motu* extended the time limits to file appeals/applications under various laws from time to time in Suo Motu Writ Petition (C) No. 3 of 2020. Thus, in the facts of the present case, we are satisfied that the reasons given by the Petitioner for the delay in filing of Form No. 10B are bonafide.

14. Moreover, not condoning such delay would cause genuine hardships to the Petitioner inasmuch as the Petitioner has been denied exemption under Section 11 of the I. T. Act and a demand of Rs. 78,51,920/- has been raised for belated filing of the audit report in Form No. 10B. One of the relevant considerations for condoning delay under Section 119(2)(b) of the I. T. Act is to consider genuine hardships which an Assessee will face if the delay is not condoned. In this regard, we derive support from the decision of this Court in case of ***Sitaldas K. Motwani vs. Director General of Income-tax (International Taxation), New Delhi reported in [2010] 323 ITR 223 (Bombay).*** Paragraph 15 of the said decision is reproduced hereunder:-

> *"15. The phrase "genuine hardship" used in Section 119(2)(b) should have been construed liberally even when the petitioner has complied with all the conditions mentioned in Circular dated 12th October, 1993. The Legislature has conferred the power to condone delay to enable the authorities to do substantive justice to the parties by disposing of the matters on merit.*
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> *The expression "genuine" has received a liberal meaning in view of the law laid down by the Apex Court referred to hereinabove and while considering this aspect, the authorities are expected to bare in mind that ordinarily the applicant, applying for condonation of delay does not stand to benefit by lodging its claim late. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this,*

when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non- deliberate delay. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk. The approach of the authorities should be justice-oriented so as to advance cause of justice. If refund is legitimately due to the applicant, mere delay should not defeat the claim for refund."

15. In somewhat similar circumstances, this Court had condoned the delay in filing of Form No. 10B in the case of ***Mirae Asset Foundation vs. Principal Commissioner of Income-tax - 6, Mumbai [Writ Petition No. 713 of 2025 decided on 7th July 2025]***. Paragraph 5 of the said order is reproduced hereunder:-

"5. As far as the condonation of delay is concerned, we find that admittedly there was only 24 days delay in filing Form 10B. It is true that the application seeking condonation of delay was filed after about 9 months. However, we find that this delay is not such that should deny the Petitioner from filing Form 10B with a delay of 24 days. We find that if this delay is not condoned, there will be genuine hardship to the Petitioner, inasmuch as, the Petitioner would be denied the exemption otherwise claimed under the provisions of Section 11 of the IT Act and which is a substantial amount. In the view that we take, we are supported by a decision of the Hon'ble Gujarat High Court in the case of Sarvodaya Charitable Trust v. ITO (exemption) [2021] 125 taxmann.com 75/278 Taxman 148 (Gujarat). A Division Bench of the Gujarat High Court in Sarvodaya Charitable Trust (supra) took a view that in cases like the present one (delay in filing Form 10B), the approach of the Authorities ought to be equitious, balancing and judicious and availing of exemption should not be denied merely on the bar of limitation. This is more so, when the legislature has conferred wide discretionary powers to condone the delay on

the authorities concerned. The relevant portion of this decision reads thus :-

"31. Having given our due consideration to all the relevant aspects of the matter, we are of the view that the approach in the cases of the present type should be equitious, balancing and judicious. Technically, strictly and liberally speaking, the respondent no.2 might be justified in denying the exemption under section 12 of the Act by rejecting such condonation application, but an assessee, a public charitable trust past 30 years who substantially satisfies the condonation for availing such exemption, should not be denied the same merely on the bar of limitation especially when the legislature has conferred wide discretionary powers to condone such delay on the authorities concerned.

32. We may also refer to the decision of this Court in CIT v. Gujarat Oil and Allied Industries Ltd. [1993] 201 ITR 325 (Guj.), wherein it is held that the provision regarding furnishing of audit report with the return has to be treated as a procedural proviso. It is directory in nature and its substantial compliance would suffice. In that case, the assessee had not produced the audit report along with the return of income but produced the same before the completion of the assessment. This Court took the view that the benefit of exemption should not be denied merely on account of delay in furnishing the same and it is permissible for the assessee to produce the audit report at a later stage either before the IncomeTax Officer or before the appellate authority by assigning sufficient cause."

16. In light of the above discussion, we quash and set aside the impugned order passed under Section 119(2)(b) of the I. T. Act dated 27th February 2025 and condone the delay of 31 days in filing of Form No. 10B for AY 2020-21.

17. Since the delay has been condoned, the Respondent 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.

18. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

19. 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.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**