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

WRIT PETITION NO.1944 OF 2025

Akhil Bharatiya Daivadnya
Samajonnati Parishad .. Petitioner.

Versus

Commissioner of Income Tax
(Exemptions), Mumbai & Others .. Respondents.

Adv. Rahul Hakani, *for the Petitioner.*

Adv. Prathamesh P. Bhosle, *for the Respondents.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: APRIL 21, 2026

P. C.

1 Mentioned. With the consent of the parties, taken out of turn.

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

3 The above Writ Petition has been filed challenging the legality and propriety of the order dated 10.02.2025 passed under Section 119(2)(b) of the Income Tax Act, 1961 ("the Act") for A.Y.2020-2021. By the

impugned order, the CIT (Exemptions), Mumbai (Respondent No.1) rejected the Application filed by the Petitioner seeking a condonation of delay of 228 days in filing the return of income. The Petitioner has further challenged the Assessment Order passed under Section 147, read with Section 144B, dated 5/3/2025 whereby the claim of exemption under Section 11 was denied on the ground that the delay in filing the return of income was not condoned.

4 The Petitioner is a public charitable trust registered under Section 12A of the Income Tax Act, 1961 (hereinafter referred to as the "**the Act**") and also under the Maharashtra Public Trusts Act, 1950.

5 The year under consideration is A.Y. 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. However, the Petitioner was unable to file its return of income and Form No. 10B within the stipulated time as due to the COVID-19 pandemic, the Petitioner lost two of its Trustees who were looking after the tax matters and were also the authorized signatories. As a result, the accounts and audit were not finalized within the stipulated time. The last date to file the return of income for A.Y. 2020-21 was 15.02.2021.

6 The Petitioner filed its application for condonation of delay in filing the return of income as well as Form No. 10B on 01.10.2021 with Respondent No.1. Respondent No.1 passed an order dated 10.02.2025 condoning the delay in filing Form No.10B. However, a separate order was passed on the same date, i.e. 10.02.2025, thereby rejecting the condonation of delay in filing the return of income on the ground that the Petitioner had filed its return of income on 25.04.2024 in response to the notice under Section 148 of the Act dated 11.03.2024. In the assessment order passed on 05.03.2025 under Section 147 and 144B of the Act, the Petitioner has been denied exemption under Section 11 of the Act on the ground that the Petitioner did not file its return of income within the due date of filing the return under Section 139(1) of the Act. Therefore, an addition of Rs.29,50,752/- was made to the Petitioner's total income for A.Y. 2020-21. Hence, the present Petition was filed.

7 We have heard the learned counsel for the parties. We have also perused the materials placed on record.

8 From the record, we are satisfied that there is a reasonable cause for the delay in filing the return of income. We are of the view that Respondent No.1 ought to have taken a justice-oriented approach rather than

a pedantic one and condoned the delay, especially when the same reasons for delay in filing Form No. 10B were accepted by the Respondent No.1. The notice under Section 148 of the Act for A.Y. 2020-21 was issued to the Petitioner on 11.03.2024 on the ground of non-filing of the return of income. However, the Petitioner's application under Section 119(2)(b) for condonation of delay in filing return of income and Form No.10B was filed on 01.10.2021 with Respondent No.1 and the same was pending consideration. These factors ought to have been considered by Respondent No.1.

9 One of the relevant considerations for condoning delay under Section 119(2)(b) of the Act is to consider genuine hardship which an assessee will face if the delay is not condoned. We derive support from the decision of this Court in the case of ***Sitaldas K. Motwani vs. Director General of Income-tax (International Taxation), New Delhi reported in [2010] 323 ITR 223 (Bombay).*** Para 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 12-10-1993. 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. 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."*

10 Further, this Court, in several of its orders involving a similar issue of delay in filing return of income, has adopted a liberal construction, namely :

(a) Teksons Private Limited vs. Chief Commissioner of Income Tax & Anr. [W.P. No. 1889 of 2025, order dated 17.03.2026]

(b) Sikkim Ferro Alloys Ltd. vs. CBDT & Ors. [W.P.(L) No. 39914 of 2025, order dated 16.12.2025]

(c) Western Arch Developers vs. PCIT (Central), Pune & Ors. [W.P. No. 10698 of 2025, order dated 04.08.2025]

(d) Balaji Landmarks LLP vs. CBDT & Ors. [W.P. No. 16638 of 2024, order dated 14.10.2025]

11 Considering the facts and circumstances of the case, we are of the view that the delay ought to be condoned. We accordingly quash and set aside the impugned order dated 10.02.2025 passed under Section 119(2)(b) of the Act and condone the delay of 228 days in filing the return of income for A.Y. 2020-21. We further find from a perusal of the Assessment order that after various issues were examined, the only reason for denial of exemption u/s 11 was non filing of the return of income by the due date and not producing any condonation order. Since we have already condoned the delay, we also quash and set-aside the Assessment Order passed under Section 147, read with Section 144B, dated 5/3/2025.

12 The Respondents are accordingly directed to open the tab on the Income Tax Portal to facilitate the filing of the return of income of the Petitioner for A.Y. 2020 - 21 within a period of 4 weeks from the date of uploading of this order. Upon filing such return of income, the same shall be processed in accordance with law on the basis that the Return of Income is filed within time.

13 Rule is made absolute in the aforesaid terms. However, there shall be no order as to costs.

14 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.]**