IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2175 OF 2025

Rama Industries Ltd .. Petitioner

Versus

Principal Commissioner of Income Tax
Mumbai-3 & Anr .. Respondents

Mr. J. D. Mistri*, *Senior Advocate *with Mr. Gautam Thakkar i/b Mr. Atul K. Jasani, Advocates for the Petitioner.*

Mr. Vipul Bajpayee, *Advocates for the Respondents.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: JANUARY 7, 2026

P. C.

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

2. This Writ Petition challenges the order dated 28th January 2025 passed by Respondent No. 1 under Section 119(2)(b) of the Income-tax Act, 1961 ("***I. T. Act***") rejecting the Petitioner's application dated 24th September 2023 for condonation of delay in filing Form No. 10-IC for the Assessment Year 2020-2021. Respondent No. 1 has by the impugned order, refused to

condone the delay of 11 days in filing Form No. 10-IC. Consequently, the Petitioner's claim for taxation at the lower rate of tax and exemption from the scheme of Minimum Alternate tax under Section 115JB of the I. T. Act have been denied to the Petitioner. This has resulted in a demand of Rs. 1,61,69,670 (including interest of Rs.32,12,363) in an intimation under Section 143(1) of the I. T. Act dated 20th December 2021.

3. The Petitioner is a closely held domestic company who is entitled to avail of the lower rate of taxation under the newly introduced provisions of Section 115BAA of the I. T. Act. The Petitioner has been regularly filing its return of income and complying with the other provisions of the I. T. Act. For the Assessment Year under consideration (A. Y. 2020-21), the Petitioner filed its return of income on 21st January 2021 declaring its total taxable income as NIL, after adjusting the unabsorbed depreciation of Rs. 7,90,70,837/- under the normal provisions of the I. T. Act. Having selected the option in its tax return to be assessed under the lower rate of tax under Section 115BAA, the portions of the return pertaining to the deductions under Chapter VI-A and Minimum Alternate Tax under Section 115JB were automatically disabled. However, for various reasons including the effect of the COVID pandemic on its operations, Form No. 10-IC, which was required to be filed in terms of sub-Section (5) to Section 115BAA read with Rule 21AE of the Income-tax

Rules, 1962, could not be filed on or before the due date for furnishing the return of income.

4. Recognizing the difficulties being faced by the Assessees in filing Form No. 10-IC and various representations received, the CBDT vide Circular No.6 of 2022 dated 17th March 2022 condoned the delay in filing the Form in the case of all Assessees up to 30th June 2022 on the terms set out in the said circular. The Petitioner attempted to file the Form No. 10-IC on the Income-Tax Portal, but owing to technical difficulties, particularly that the option to select the Financial Year 2019-20 (relevant for the Assessment Year 2020-21) was not available, it was unable do so. However, the Petitioner saved a draft of the Form on the Portal on 25th March 2022. The Petitioner has downloaded an extract from the Portal of the Income-Tax department to clearly establish that the draft Form No. 10-IC was saved there on at 17:14 on 25th March 2022. The Petitioner points out that the said Form only contains a recital of the fact that it is availing of the option to be taxed in accordance with the provisions of Section 115BAA of the I. T. Act.

5. The Petitioner says that various Assessees faced the same predicament despite Circular No.6 of 2022 dated 17th March 2022 as is evident from the screenshots of various blogs/ communications annexed to

the Petition. At some point thereafter (without, to the best of the Petitioner's knowledge, information, belief of any public announcement) the technical problem was resolved by the Income-Tax department. In view of the fact that there was no public announcement of the resolution, the Petitioner lost track of the matter and missed filing the Form by 30th June 2022.

6. On 11th July 2022, realizing that the due date had been missed, the Petitioner after a delay of 11 days filed a physical copy of Form 10-IC with the Jurisdictional Assessing Officer. On 24th September 2023, Petitioner filed an application for condonation of delay with the CBDT narrating the circumstances in which the delay of 11 days occurred and prayed that the delay be condoned.

7. Vide Circular No. 17 of 2024, dated 18th November 2024, the CBDT delegated the power to condone the delay in filing the Form 10-IC to Respondent No.1.

8. Respondent No.1, after noting the facts of the case, including that the Petitioner, who was not liable to pay tax under the provisions of the Section 115BAA of the I. T. Act, had been subjected to a liability of Rs. 1,61,69,670/- owing to the denial of benefit of Section 115BAA, vide order

dated 28th January 2025, rejected the Petitioners application dated 24th September 2023 for condonation of delay in filing Form No. 10-IC on the sole ground that the Petitioner has not filed the form electronically and that the Petitioner had not made out a case of genuine hardship. Hence, the present Petition.

9. In this factual backdrop, Mr. Mistri, the learned Senior counsel for the Petitioner, points out that Respondent No. 1 has not doubted or denied any of the facts set out by the Petitioner. The Petitioner had filed Form No. 10-IC with a delay of 11 days. This delay was clearly due to the various factors mentioned in the Petition and was not intentional or deliberate but purely technical and inadvertent. Further the Petitioner had not obtained any advantage on account of the delay and there was neither any loss of revenue nor any attempt to evade tax. In fact, the Petitioner had clearly suffered hardship on account of tax and interest of Rs. 1,61,69,670 being levied on them, when it has no liability to pay tax in accordance with the I. T. Act.

10. Mr. Mistri submitted that the following Circulars issued by Respondent No. 2 (CBDT), under Section 119(2)(b) of the I. T. Act authorized

the condonation of delay in filing of Form No. 10-IC for the Assessment Year 2020-2021:

i) CBDT Circular No. 6 of 2022 dated 17-03-2022

ii) CBDT Circular No. 17 of 2024 dated 18-11-2024

11. It was submitted that the issuance of these Circulars *per se* shows the intention of the Board to allow Respondent No.1 to condone the delay in filing Form No. 10-IC. It was urged that Respondent No. 1 had adopted a hyper technical and pedantic approach, which has caused grave prejudice to the Petitioner. Respondent No. 1 ought to have taken a lenient and a pragmatic view of the matter and condoned the delay. In this regard, the learned counsel for the Petitioner relied on the decision of ***Mirae Asset Foundation v. Pr. Commissioner of Income-tax [WP No. 713 of 2025 decided on 7th July 2025]*** rendered by this Court in support of the proposition that in matters of condonation of delay a justice oriented approach should be adopted and a highly pedantic and technical approach should be eschewed. Mr. Mistri further submitted that similar views have been taken by various High Courts, particularly that the delay in filing Form No. 10-IC in such circumstances ought to be condoned. In this regard Mr. Mistri relied upon the following judgments in support of the above proposition:

i) ***V M Procon Pvt. Ltd. v Assistant Director of Income-tax [2024] 168 Taxmann.com 517 (Gujarat)***

ii) ***Axe BPO Services (P.) Ltd. v Director (ITA-1) (W.P. No. 3425 of 2024, dated 13-11-2024) (Madras)***

iii) ***MRF Ltd. v Central Board of Direct Taxes, New Delhi [2025] 172 taxmann.com 776 (Madras)***

iv) ***Deeprock TMS (P.) Ltd. v Principal Commissioner of Income-tax [2023] 456 ITR 701 (Telangana)***

12. Mr. Mistri finally points out that the impugned order is bereft of any valid reasoning and / or principle and in fact, there is not even a mention that the delay was caused because of any willful / intentional default on the part of the Petitioner. Consequently he submitted that the impugned order dated 28th January 2025 be set aside and the delay in filing Form 10-IC be condoned.

13. On the other hand, on the basis of the affidavit in reply dated 1st November 2025, Mr. Bajpayee, the learned counsel for the Respondent, relied on the language of Section 115BAA(5) of the I. T. Act and submitted

that the sub-section is clear and the benefit of Section 115BAA cannot be granted unless the option is exercised in the prescribed manner on or before the due date specified under Section 139(1) of the I. T. Act. The learned counsel for the Respondents further defended the action of the Revenue and submitted that the window for filing Form 10-IC had been extended to 30th June 2022. He further submitted that the Petitioner has failed to make out a case for condonation of delay on the reasoning set out by Respondent No. 1 in his order. Consequently, he submitted that the Writ Petition be dismissed.

14. We have heard the learned Counsel for the parties. We have also perused the materials placed on record and the case laws relied upon. Section 119(2)(b) of the I. T. Act reads as follows:

> *"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, authorise 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"*

15. We are of the view that the said Section clearly empowers the CBDT (and the 1st Respondent by virtue of Circular No. 17 of 2024 dated 18th November 2024) to condone the delay in filing Form No. 10-IC. We are

fortified in our view by the decision of the Gujarat High Court in the case of ***V M Procon Pvt. Ltd. v Assistant Director of Income-tax (supra)*** and in the case of the Madras High Court in the case of ***Axe BPO Services (P.) Ltd. v Director (ITA-1) (supra).***

16. Further, we are of the opinion that the Petitioner has been subjected to genuine hardship by virtue of the fact that an amount of Rs. 1,61,69,670 has been levied / demanded from it when on application of the provisions of Section 115 BAA of the Act, no tax would be payable by it.

17. Further, admittedly, Assessment Year 2020-2021 was the first year where filing of Form No. 10-IC was required in order to avail of the beneficial treatment under Section 115BAA of the I. T. Act [by the amendment made by the Taxation Laws (Amendment) Act, 2019]. Hence, the possibility of the Petitioner having inadvertently and / or for the various reasons aforementioned, failed to file the same within time cannot be ruled out and the Assessee ought not to be denied the benefit of the provisions for such inadvertent delay. Precisely for this reason, the Board had issued various Circulars empowering Respondent No.1 to condone the delay in filing of Form 10-IC in genuine cases.

18. For all the reasons abovementioned, we are unable to accept the submissions of the learned counsel for the Respondents and are of the opinion that the impugned order cannot be sustained.

19. In view of the foregoing discussion, we quash and set aside the impugned order dated 28th January 2025 passed by Respondent No. 1 under Section 119(2)(b) of the I. T. Act and condone the delay in filing Form No. 10-IC by the Petitioner. Rule is made absolute in terms of prayer clauses (a) and (b) which read thus:-

> *a) That this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ order or direction under Article 226 of the Constitution of India calling for the records of the case leading to passing of the impugned order (Exhibit - T) dated 28th January 2025, and after going through the same and examining the question of legality thereof quash, cancel and set aside the impugned order (Exhibit - T) dated 28th January 2025;*
>
> *b) that this Hon'ble Court may be pleased to issue a Writ of Mandamus or a writ in the nature of Mandamus, or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India, ordering and directing the Respondents to:*

i. Withdraw the impugned order (Exhibit - T) dated 28th January, 2025;

ii. Condone the delay in filing the Form No. 10- IC for the Assessment Year 2020-21; and

iii. Allow the Petitioner's claim for being assessed under the provisions of Section 115BAA for the Assessment Year 2020-21 i.e. the income of the Petitioner be assessed at the lower rate of tax as per the aforesaid provision and that no assessment is made under Section 115JB of the I.T.Act.;

20. 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.

21. 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.]**