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

WRIT PETITION NO.4165 OF 2025

Diebold Nixdorf India Pvt. Ltd. .. Petitioner.

Versus

Central Board of Direct Taxes
through the Chairman & Others .. Respondents.

Adv. Nishant Thakkar with Adv. Hiten Thakkar, Adv. Shubham Bhandari ***i/b.*** *Lumiere Law Partners, for the Petitioner.*

Adv. Subir Kumar with Adv. Niyanta Trivedi and Adv. Ashita Aggarwal, *for the Respondents.*

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

P. C.

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

2 This Writ Petition challenges the order dated 3rd July 2024 passed by Respondent No.1, viz. the Central Board of Direct Taxes ("CBDT") rejecting the application of the Petitioner under Section 119(2)(b) of the Income-tax Act, 1961 ("the Act") to condone the delay of 23 days in filing

Form 10-IC under Section 115BAA(5) of the Act for Assessment Year 2020-21.

3 For the Assessment Year ("A.Y.") 2020-21, owing to the COVID-19 pandemic, the time limit to file the return of income under Section 139(1) of the Act was extended up to 15th February 2021 [vide Notification No. 93/2020 dated 31st December 2020 issued under Section 3 of Taxation and Other Laws Amendments Act, 2020]. Similarly, the time limit to file a belated return of income under Section 139(4) of the Act was extended by Circular No. 8/2021 issued by CBDT to 31st May 2021.

4 By the Taxation Laws (Amendment) Act, 2019, Section 115BAA was introduced in the Act w.e.f. 1st April 2020 (i.e. A.Y. 2020-21) for levy of tax at a concessional rate. An assessee desiring to opt for such concessional rate was required to file Form 10-IC within the time limit set out in Section 115BAA(5). The Petitioner opted for the benefit of concessional rate of taxation under Section 115BAA of the Act by filing Form 10-IC on 10th March 2021 for A.Y. 2020-21. Thereafter, on 31.03.2021, the Petitioner filed its return of income under Section 139(4) of the Act disclosing a total income of Rs. 43,02,45,900 and disclosing therein that it had opted for the concessional rate of taxation under Section 115BAA of the Act.

5 On 24th December 2021, the return of income of the Petitioner for AY 2020-21 was processed under Section 143(1) of the Act. In the said intimation under Section 143(1), the Petitioner was denied the benefits of Section 115BAA of the Act resulting in additional tax liability of Rs. 10,65,60,637, including interest.

6 On 17th March 2022, Respondent No.1 ("CBDT") issued a Circular No. 06/2022 ("the Circular") providing that the delay in filing of Form 10-IC for A.Y. 2020-21 was to be condoned subject to fulfilment of the following conditions:

a. The return of income for A.Y. 2020-21 has been filed on or before the due date specified under Section 139(1) of the Act.
b. The assessee company has opted for taxation under Section 115BAA of the Act in "Filing Status" in "Part A-GEN" of the form ITR-6 for return of income.
c. Form 10-IC is filed electronically on or before the 30.06.2022 or 3 months from the of the month in which Circular is issued whichever is later.

7 On 7th April 2022, the Petitioner filed an application for condonation of delay of 23 days in filing of Form 10-IC for A.Y. 2020-21. It

was submitted that the delay was caused on account of the COVID-19 pandemic and termination of employees in the Finance and Accounts Department responsible for the aforesaid compliance. Accordingly, a request was made to condone the delay of 23 days in filing of Form 10-IC under Section 115BAA of the Act.

8 However, Respondent No.1 rejected the application for condonation of delay *vide* order dated 3rd July 2024 ("impugned order"). The rejection was firstly on the ground that the condition prescribed in Para 3(i) of the Circular was not fulfilled and secondly, on the ground that no reasonable cause was shown to justify genuine hardship warranting condonation of delay in filing of Form 10-IC.

9 The Counsel for the Petitioner submitted that the impugned order is unsustainable and bad in law. He submitted that in so far as the reason given by Respondent No.1 regarding filing of return of income within the time limit prescribed under Section 139(1) of the Act is concerned, the same is contrary to the plain language of the provisions of Section 115BAA(5) of the Act which only require that a declaration in Form 10-IC is to be filed within the time limit prescribed under Section 139(1) and not the return of income. He further submitted that since the time limit for filing of Form 10-

IC for A.Y. 2020-21 was extended by Respondent No.1, vide Circular No. 06/2022, to 30th June 2022, there is no delay in filing Form 10-IC filed by the Petitioner on 10 March 2021. In any case, he submitted that the delay in filing of Form 10-IC is only 23 days, and the same was caused due to the COVID-19 pandemic, and on account of retrenchment of employees in the Finance and Accounts Department of the Petitioner. Therefore, he submitted that the delay was bona fide. In this regard, he relied on the judgment of this Court in **Gem Nuts & Produce Exports Co. (P.) Ltd. vs. PCIT [2025] 178 taxmann.com 256 (Bom.)**.

10 The learned Counsel for the Petitioner further submitted that A.Y. 2020-21 was the first year for applicability of Section 115BBA and the filing of Form 10-IC, and therefore, a lenient view of the matter was required to be taken, a fact which has been recognised by the CBDT in Circular No. 06/2022 while extending the time limit to file Form 10-IC for A.Y. 2020-21. In this regard, he placed reliance on the Judgment of this Court in case of **Rama Industries Ltd. vs. PCIT [2026] 182 taxmann.com 846 (Bom.)**.

11 On the other hand, Mr. Subir Kumar, the learned Counsel for the Respondents, supported the impugned order and submitted that the conditions of Circular No.06/2022 are not fulfilled and therefore the benefit of the Circular is not available to the Petitioner. He further submitted that the

Petitioner has not provided any evidence to justify the reasons for the delay in filing of Form 10-IC. Accordingly, he submitted that the impugned order of Respondent No. 1 should be upheld.

12 We have considered the rival submissions and the material placed on record. It is not in dispute that the delay is of 23 days in filing Form 10-IC for A.Y. 2020-21. Circular No.6/2022, in paragraph 3, sets out the following three conditions to be satisfied for condoning delay in filing Form 10-IC:

a. The return of income for the relevant assessment year has been filed on or before the due date specified under Section 139(1) of the Act

b. The assessee company has opted for taxation under Section 115BAA of the Act in “Filing Status” in “Part A-GEN” of the Form of Return of Income ITR-6; and

c. Form No. 10-IC is filed electronically on or before 30-06-2022 or 3 months from the end of the month in which this Circular is issued, whichever is later.

13 The first reason given by Respondent No.1 in the impugned order is that the condition for filing return of income on or before the due date specified under Section 139(1) has not been satisfied (condition ‘a’,

above). There is no dispute that the other two conditions are satisfied. In so far as condition 'a' is concerned, it is true that the Petitioner had not filed its return of income on or before the due date specified under Section 139(1) of the Act. However, it is equally true, as rightly pointed out by Mr. Thakkar, that there is no such requirement under Section 115BAA of the Act to claim the benefit thereof. In this regard, reliance has been rightly placed on the following observations of this Court in case of *Gem Nuts & Produce Exports (supra)*:

> *"…As far as the 1st condition is concerned, it is true that the Petitioner had not filed its return of income on or before the due date specified under Section 139(1) of the Act. However, as rightly pointed out by Mr. Gandhi, there is no such requirement under Section 115BAA of the Act to claim benefit under the said Section. In other words, if Form 10IC is filed within the due date specified under Section 139(1) of the Act but if the return of income is filed beyond such due date specified under Section 139(1) of the Act, even then an assessee would be eligible to claim benefit under Section 115BAA of the Act. Thus, filing of return of income within the due date specified under Section 139(1) of the Act is not a condition precedent for claiming benefit under Section 115BAA of the Act. In any event, even if the conditions of Circular No.19/2023 (supra) are not fulfilled, then the Petitioner may not be eligible for the straightforward benefit under the said circular. However, that does not mean, that Respondent No.1 otherwise does not possess power to condone delay under Section 119(2)(b) of the Act dehors such Circular. Thus, the first ground for rejection of application for condonation of delay cannot be countenanced."*

We, therefore, reject the first reason given by Respondent No.1 in the impugned order for dismissal of the application filed by the

Petitioner.

14 The second reason given by Respondent No.1 for rejection of the application, that no genuine cause has been shown by the Petitioner for condonation of delay, also cannot be accepted. There is no reason for disbelieving the Petitioner that the delay of 23 days was on account of the COVID-19 pandemic and the termination of employees in the Finance & Accounts Department. The fact that the return of income was filed subsequently on 31st March 2021 on the basis of draft accounts and draft tax computation indeed shows that the Petitioner’s hardship was genuine and the delay was *bona fide*. Further, considering the length of delay, which is hardly 23 days, we are inclined to take a lenient view in the matter particularly bearing in mind that A.Y. 2020-21 was the first year of filing Form 10-IC and therefore a liberal view is required to be taken, which is indeed the reason why CBDT had issued the Circular No.06/2022 for condonation of delay. Our conclusion is supported by the decision of this Court in *Rama Industries Ltd.* (*supra*), wherein this Court condoned the delay in filing Form 10-IC for A.Y. 2020-21 being the first year of delay, observing thus:

> *“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."

15 In the light of the above discussion,we quash and set aside the impugned order dated 3rd July, 2024 passed by Respondent No.1 and condone the delay of 23 days in filing Form 10IC for Assessment Year 2020-21. Now that the delay is condoned, the Petitioner's return, which is already assessed (vide Order dated 30th September, 2023), shall be modified to levy tax as per the provisions of Section 115BAA on the basis that Form 10-IC has been filed within time.

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

17 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.]**