IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 635 OF 2026

Francis Xavier Church .. Petitioner

Versus

The Commissioner of Income Tax .. Respondents

Adv. Dinkle Hariya i/b Adv. Shruti Kalyanikar for the Petitioner.

Adv. Prathamesh P. Bhosle for Respondents.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: FEBRUARY 18, 2026

P. C.

1. Rule. Rule made returnable forthwith. Learned Counsel for the Respondents waives service. By consent of the parties, the Petition is taken up for final disposal at the stage of admission.

2. The above Writ Petition challenges the legality and validity of the impugned order dated 24.02.2025 passed by Respondent No.1, Commissioner of Income – tax (Exemptions), Mumbai, under Section 119(2)(b) of the Income-tax Act, 1961 ["the Act"], rejecting the application for condonation of delay in filing Form No. 10 for Assessment Year 2015–16. The Petitioner has also challenged the Intimation dated 22.10.2016 issued under Section 143(1) of the Act denying exemption under Section 11(2) of the Act to the extent of Rs. 47,00,000/-; and the consequential failure to grant exemption u/s. 11(2) of the Act.

3. The Petitioner is a public charitable trust registered under Section 12A / 12AB of the Act since 1980. The Petitioner has been regularly complying with various obligations for seeking exemption under Section 11 of the Act for more than three decades, including regularly its filing return of income, audit reports, Form 10, wherever applicable. The Petitioner has also been consistently granted the benefit of exemption under Section 11 of the Act over the years, resulting in Nil or negligible assessed income.

4. For Assessment Year 2015 - 16, the Petitioner filed its return of income on 25.09.2015, within the time prescribed under Section 139(1) of the Act, being 31.10.2015. The Petitioner thereafter filed its revised return of income on 29.10.2015, which was also within the statutory time limit. In its return of income, the Petitioner declared Nil income after claiming accumulation under Section 11(2) to the extent of Rs. 47,00,000/-. Tax Audit Report in Form No. 10B was filed on 25.09.2015 disclosing accumulation under Section 11(2) of the Act. As such, the details of accumulation were reflected in the return of income as well as the tax audit report.

5. It is the Petitioner's contention that the Petitioner had filed Form No. 10 physically on 30.09.2015 but it has no copy to support the claim on account of the circumstances as narrated in the Petition.

6. Respondent No. 3 herein (Centralised Processing Centre), issued an intimation under Section 143(1) of the Act on 22.10.2016 disallowing the benefit of accumulation and adding the amount of such accumulation (Rs. 47,00,000/-) to the income of the Petitioner. Though no reason appears to have been mentioned in such intimation, the Petitioner was given to understand later on that the same was because Form No.10 was not filed within the prescribed time (i.e. 31.10.2015). The Petitioner subsequently filed Form No.10 electronically on 21.11.2016.

7. The Petitioner, thereafter, moved a rectification application before Respondent No.3 on 20.12.2016. However, the same did not result in grant of relief. Under the aforesaid circumstances, the Petitioner filed an application before Respondent No.1 on 07.10.2020 for seeking condonation of the delay in filing Form No. 10, under Section 119(2)(b) of the Act. This application was rejected by Respondent No.1 vide his impugned order dated 24.02.2025 on the ground of absence of reasonable cause for the delay in filing Form No. 10. Respondent No.1 has observed that there was a delay of

423 days in filing Form No. 10. However, it is the Petitioner's case, that the delay, if any, is of 387 days and not 423 days. Aggrieved by this impugned order, the Petitioner has filed the present Petition.

8. We have heard Ms. Hariya, the learned Counsel appearing on behalf of the Petitioner as well as Mr. Bhosle, the learned Counsel appearing on behalf of Respondents.

9. For claiming the benefit of Section 11 (2) of the Act, the Petitioner was required to file Form No. 10 (Statement of Accumulation). However, Section 11(2) of the Act, as it stood for A.Y. 2015-16, did not prescribe a time limit for filing Form No. 10. It was only in Rule 17 of the Income Tax Rules, 1962 that the time-limit for filing Form No. 10 was prescribed, i.e. before the expiry of time allowed under sub-Section (1) of Section 139 for furnishing the return of income. However, by virtue of Finance, Act 2015, the amendment to Section 11(2) of the Act statutorily required filing of Form No. 10 on or before the due date under Section 139(1) for furnishing of return of income. Consequential amendment to Rule 17 mandated electronic filing of Form 10. These requirements were mandated only from A.Y. 2016-17.

10. From the record, we find that the delay has been explained by the Petitioner by stating that the delay has occurred due to Petitioner's oversight and as the Petitioner was under the impression that Form No. 10 was physically filed within time. Moreover, due to unavoidable circumstances, in the Covid – 19 pandemic, the Petitioner could utilize only Rs. 2,28,467/- in A.Y. 2020 – 2021 out of the total accumulation of Rs. 47,00,000/- in A.Y. 2015-16. The balance unutilized amount of Rs. 44,17,533/- was offered to tax in the sixth year of accumulation under Section 11(3) of the Act. Thus, the disallowance of exemption in A.Y. 2015-16 would lead to double taxation.

11. We derive support from the judgment of the Hon'ble Supreme Court in ***CIT v. Nagpur Hotel Owners' Association, (2001) 247 ITR 201 (SC)***, wherein it was held that furnishing of Form No. 10 before completion of assessment constitutes sufficient compliance.

12. In any case, this Court, in several of its orders involving a similar issue of delay in filing Form No. 10, post the amendment, has adopted a liberal construction. Such Orders have been passed in :-

(a) Shree Jain Swetamber Murtipujak Tapagachha Sangh v. CIT (E) [W.P. (L) No. 1321 of 2024, Order dated 27.03.2025]

(b) KSB Care Charitable Trust v. CIT (E) [(2025) 178 taxmann.com 771 (Bom)]

(c) People's Mobile Hospitals v. CIT (E) [W.P. No. 2697 of 2025, Order dated 15.09.2025]

(d) St. Anne's School v. CIT (E) [(2025) 180 taxmann.com 183 (Bom)]

13. We are also of the view that Respondent No.1 ought to have taken a justice-oriented approach rather than a pedantic one and condoned the delay. This is supported by a decision of this Court in the case of ***Columbia Global Centre in India v. ITO (E) [W.P. (L) No. 23170 of 2025, Order dated 07.10.2025],*** which held as under :

> *"This Court, in* ***People's Mobile Hospitals v. CIT (E) (judgment dated 15 September 2025 in Writ Petition No. 2632 of 2025)*** *has followed its earlier judgments in* ***Mirae Asset Foundation v. Pr. Commissioner of Income-tax (judgment dated 7 July 2025 in WP No. 713 of 2025)****,* ***Sau Dwarkabai tai Karwa Charitable Trust v. Commissioner of Income-tax(E) (2025) 174 taxmann.com 245 (Bombay)*** *and* ***Kotak Family Foundation v. Commissioner of Income-tax (E) (2025) 176 taxmann.com 56 (Bombay)*** *and condoned the delay. In these cases also, this Court was concerned with condonation of delay in filing of similar forms within the stipulated time while claiming exemption under Section 11 of the Act. Therein, reliance was also placed on a judgment of the Gujarat High Court in the case of* ***Sarvodaya Charitable Trust v. ITO (E) (2021) 125 taxmann.com 75*** *laying down the principle that in cases like the present one, the approach of the authority 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, under Section 119(2)(b) of the Act, conferred discretionary powers to condone the delay on the authorities concerned with a view to avoid genuine hardship."*

14. Moreover, not condoning such delay would cause genuine hardship to the Petitioner in as much as the Petitioner has been denied exemption under Section 11 of the Act and a demand of Rs.14,07,930/- has been raised for filing Form No. 10 belatedly.

15. 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 passed under Section 119(2)(b) of the Act dated 24.02.2025 and condone the delay of 423 days in filing Form No. 10 for A.Y. 2015-16.

16. Since the delay has been condoned, the Respondents shall once again process the Petitioner's return within a period of eight weeks from today in accordance with law by giving effect to this order on the basis that Form No. 10 has been filed within time.

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

18. 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.]**