APHC010210152026

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

Bench Sr.No:-90 [3543]

WRIT PETITION Nos.13032 &14370 of 2026

Between

Sree Arihant Dham Jain Shwetamber Trust ...Petitioner

Vs.

The Union Of India and Others ...Respondent(s)

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CORAM : SRI JUSTICE NINALA JAYASURYA
SRI JUSTICE T.C.D.SEKHAR

DATE : 28th October 2026

Present :

Advocate for Petitioner: B.ABHAY SIDDHANTH MOOTHA

Advocate for Respondent: Y N VIVEKANANDA

HON'BLE SRI JUSTICE NINALA JAYASURYA

AND

HON'BLE SRI JUSTICE T.C.D.SEKHAR

WP Nos.13032 & 14370 OF 2026

COMMON ORDER:- *(Per Hon'ble Sri Justice T.C.D. Sekhar)*

1. As the issue involved in both the writ petitions is one and the same, they are being disposed of this common order.

2. The petitioner is a society registered under Societies Registration Act, 1860, a renowned charitable and religious institution having registered under Section 12(a)(b) of the Income Tax Act, 1961, involved in maintaining Jain Temple and its property dedicated to Sri Sankeeswara Parashwanath at Guntupally Village claiming eligible for exemption under Section 11 of Income Tax Act, 1961.

3. Through Finance Act, 2022, a proviso was introduced to Section 10(23C) of the Act, whereunder Audit Report specified under Section 288 of the Act was required to be furnished in the prescribed Form with effect from the assessment year 2023-24. The due date for filing of the return for the year 2018-19 was 31.10.2018. Accordingly the petitioner filed its return. As there was some mistakes in the return filed by the

petitioner, a revised return was filed on 01.10.2019 along with Audit Report in Form-10B on 01.10.2019 with a delay of 335 days in relation to the assessment year 2018-19. Similarly, the return for the assessment year 2020-21 was filed on 12.02.2021 with a delay of 28 days. In those circumstances, the respondents raised demand by disallowing the exemption under Section 11 of the Act, on 26.09.2019 and 30.11.2021 against the petitioner.

4. The petitioner in tune with Circular No.16 of 2022, dt.19.07.2022 filed application in respect of assessment year 2018-19 for condonation of delay under Section 119(2)(b) of Income Tax Act, 1961. A similar application was also filed in relation to the assessment years 2020-21. Both the applications filed by the petitioner came to be dismissed through separate orders dt.07.07.2025, which are being impugned in the present writ petitions.

5. The respondent Nos.2 to 4 filed counter affidavit stating that the petitioner filed application for condonation of delay on 02.01.2025, which is beyond the period of three (03) years from the end of the relevant assessment year for which such

applications were made, accordingly the application filed by the petitioner were rightly rejected as the same were barred by limitation.

6. Heard counsel for the petitioner and Sri Vamsi Krishna, learned Junior Standing Counsel appearing for the department.

7. Perused the material available on record.

8. The counsel for the petitioner strenuously contend that the 3rd respondent while rejecting the applications of the petitioner did not consider the same in its proper prospective and the impugned orders are liable to be set aside inasmuch as the authority did not deal with the grounds raised in the applications filed for condonation of delay. On the other hand, while supporting the orders under challenge, the counsel for respondents department would submit that as per Circular No.16 of 2022, dt.19.07.2022, the 3rd respondent has no power to condone the delay beyond the period of three (03) years in filing Form 10B.

9. We have considered the respective submissions made by both the counsel.

10. For proper appreciation of the case of the petitioner Section 119(2)(b) of the Income Tax Act, 1961 is reproduced hereunder:-

> "Section 119(2)(b):- 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, 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."

11. A reading of the above provision would clearly indicate that the intention of the legislature was to take a liberal approach, whenever an application is filed under the above provision of law. Further, under Section 119(2)(b) of the Act, the power is conferred on the 3rd respondent to condone the delay in furnishing the returns or an appropriate application within a reasonable period of time. A further perusal of the above provision would make it clear that, there is no specific time prescribed for condonation of delay, meaning thereby discretion is given to the 3rd respondent to exercise the same in proper prospective, especially taking into account the difficulties faced by the assessees.

12. Further, the reasoning given by the 3rd respondent, while rejecting the applications of the petitioner do not stand for legal scrutiny inasmuch as the circulars issued by Central Board of Direct Taxes would be binding on the authorities, however the same is not binding on this Court, especially while exercising jurisdiction under Article 226 of the Constitution of India. Apart from the same, fixing the time limit under the circular aforementioned is not tenable, as the same would run contrary to Section 119(2)(b) of the Act.

13. In nutshell, the 3rd respondent is conferred with the power under Section 119(2)(b) of the Act, to condone the delay on the part of assessees in filing the returns or appropriate applications. In such circumstances, rejecting the applications filed by the petitioner on the ground that the same is beyond a period of three (03) years as per the Circular No.16 of 2022, dt.19.07.2022 is not sustainable under law. Further, our view is also fortified by the decision rendered by coordinate bench of this Court in W.P.No.29398 of 2024, dt.29.01.2026 and WP No.10785 & 11521 of 2025, dt.07.07.2026.

14. Accordingly, the impugned orders dt.07.07.2025 are set aside with a direction to the respondents to consider the claim of the petitioner for refund and pass appropriate orders, as expeditiously as possible, within a period of six (06) weeks from the date of receipt of copy of this order.

15. In the result, the Writ Petitions are allowed. There shall be no order as to costs.

As a sequel, pending applications, if any shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D. SEKHAR

28.10.2026
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HON'BLE SRI JUSTICE NINALA JAYASURYA
AND
THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

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