IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.24187 of 2025

Sri Paspo Educational and Charitable Trust,
Represented by its Managing Trustee,
Mrs. B.Anuradha, W/o.Mr.K.Pandurangan,
Aged 68 years, 30 Palaniappa Nagar,
Hasthampatty, Salem – 636 007. ... Petitioner

Vs.

1. The Commissioner of Income Tax (Exemptions),
Aayakar Bhawan – Annexe Building,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.

2. The Income Tax Officer,
Exemptions Ward, Salem,
No.3, Gandhi Road, Salem – 636 007.

3. The Central Processing Centre,
1st Floor, Prestige Alpha No.48/1 & 48/2,
Beratenaagrahara Begur, Hosur Road,
Uttarahalli Hobli, Bengaluru – 560 100.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records in DIN & Order No:ITBA/COM/F/17/2024-25/1071560664(1)dated 25.12.2024 order under Section 119 (2) (b) of the Income Tax Act, 1961 on the file of the first respondent for the A.Y: 2023-2024 and quash the same and direct the first respondent to condone the delay in filing the Audit report in Form-10BB for the AY: 2023-24.

For Petitioner : Mr.I.Dinesh

For Respondents : Mr.V.J.Arulraj
Senior Standing Counsel

ORDER

In this Writ Petition, the Petitioner has challenged the Order dated 25.12.2024, whereby the application filed for condonation of delay in filing Form 10BB under Section 119(2)(b) of the Income Tax Act, 1961, as required under Section 12A(b)(ii) of the Act, has been rejected.

2. The facts on record reveal that for the Assessment Year 2023-2024, the petitioner filed the Return of Income within the due date, which had been extended to 30.11.2023. As per Rule 17B of the Income Tax Rules, 1962, the petitioner was required to file Form 10BB one month prior to the due date for filing the Return of Income under Section 139 (1) of the Act. In other words, the petitioner ought to have filed the Audit Report in Form 10BB on or before 30.09.2023.

3. In this background, the Return of Income filed by the petitioner on 30.11.2023 was taken up for processing and an intimation under Section 143(1) was issued to the petitioner on 29.10.2024. Consequently, the benefit of Section 11 of the Income Tax Act, 1961 was denied to the petitioner on the ground that Form 10BB had not been filed within the prescribed time, as mandated under Section 12(A)(1)(b) of the Act, and read with Rule 17B of the Income Tax Rules, 1962.

4. The impugned order rejected the application for condonation of delay of 30 days in filing the Audit Report in Form 10BB, with the following observations:-

> *"4.1 It is verified from the e-filing portal that the assessee has been habitual defaulter in filing return of income and form 10B which is tabulated as under:*

Sl.No.	Asst.Year	Form 10B
1	2016-17	18.04.2023
2	2019-20	18.04.2023
3	2022-23	30.03.2023
4	2023-24	30.11.2023

> *The assessee filed condonation petition for the delay in filing Audit Report for the AYs 2016-17,2018-20, 2022-23 and 2023-24 with CIT(E), Chennai on 13.02.2024. Since the assesse filed the medical records of the Managing Trustee Ms.B. Anuradha for the period October-November 2022, a sympathetic view was taken and the delay in filing Form 108 of 174 days for the AY 2022-23 was condoned.*

4.2 In the instant case, in connection with the condonation petition for the impugned Asst. Year 2023-24, it is seen that the assesse has filed the medical reports of the Managing Trustee Ms.B. Anuradha to the Assessing Officer for the treatment undergone in Sri Sai Hospitals during October November 2023. It is seen that the asseessee has been submitting the medical records of Ms.B. Anuradha for all the AYs for which there is delay in filing the audit report. If the managing trustee is not in a position to file the statutory obligations on time, then the other Trustees could have tried to file the form on time. But the assessee has not done so. From the efiling portal it is seen that the assesse has started filing Form 10B and return for the first time only after receipt of notice u/s 148 for the AY 2016-17 and 2019-20. For the other years viz., 2020-21 to 2022-23, the assessee filed updated return u/s 139(8A) by paying Rs. 1000/-.

4.3 The assessee Trust has stated that the Managing Trustee was not in sound health for the past 10 years that too suffering from Post traumatic stress disorder and has been immobilized and in depression. The assessee being a large institution running nursing colleges and having gross receipts of more than Rs.4 crores, shouldhave taken initiative to arrange for maintenance of books of accounts The finalization of audit and filing of return / Audit report within the due date are the basic conditions to be adhered, to claim large exemption u/s 11 and 12. When it is well very known that one of the Trustee is not in a position to run such a large organization, the management of the Trust and the Chartered Accountants should have been more vigilant when dealing with statutory compliances.

5. Hence, the reasons stated by the assessee are only an afterthought. This shows the casual approach of the applicant towards statutory compliances. The assessee has not put forth any reasonable cause beyond its control which prevented the assessee from filing Form 10B within the due date specified in the Act.

6. In view of the facts and circumstances cited above, it is very clear that the assessee has not put forward any reasonable cause beyond its *control which prevented the assessee from filing Form 108 on the due date specified in the Act. Hence, the applicant's petition filed on 05.02.2024 seeking condonation of delay under section 119(2)(b) in filing Form 10B for the AY 2023-24 is hereby rejected."*

5. A Reading of the impugned order indicates that the respondent has relied upon **CBDT Circular No.2/2020** dated **03.01.2020**, as referred to in Paragraph Nos. 5 and 6 of the said Circular, wherein it has been stated as follows:-

> *"it has also been decided by the CBDT that where there is delay of upto 365 days in filing Form No.10BB for the AY 2018-19 or for any subsequent AYs, the Commissioners of Income Tax are hereby authorized to admit such belated applications of condonation of delay u/s 119(2) of the IT Act and decide on merits.*
>
> *The Commissioner of Income Tax shall, while entertaining such belated applications in filing Form No.10BB, satisfy themselves that the assessee was prevented by reasonable cause from filing such application within the stipulated time…"*

6. The reasons stated in the application for condonation of delay were that the Managing Trustee of the Petitioner Trust, namely Mrs.B.Anuradha was suffering from medical aliments, resulting in the delay in filing Form 10B. It was specifically stated that she was suffering from Post Traumatic Stress Disorder (PTSD) and therefore was immobile in a depressed state.

7. It is also noticed that the Managing Trustee is aged about 68 years and is a senior citizen. Therefore, some degree of relaxation ought to have been considered in favour of the petitioner.

8. That apart, although the circular issued by the CBDT is binding on the authorities, it cannot override the principles of substantial justice. The benefit of statutory exemption or redemption cannot be denied to an assessee who is otherwise entitled to such exemption, merely due to a procedural lapse.

9. A mere failure to file the Return of Income or the prescribed form within the stipulated time should not stand in the way of granting legitimate exemptions or redemptions available under the provisions of the Act.

10. This Court has consistently taken the view that the Income Tax Department is primarily concerned with the collection of cess and cannot saddle an assessee with tax liability when the assessee is otherwise entitled to benefits in the nature of redemption or exemption.

11. Following the decision of the Hon'ble Supreme Court in ***Unichem Laboratories*** *Vs.* ***Commissioner of Central Excise***, (2002) 7 SCC 145, the

Hon'ble Supreme Court held that it is not on the part of the duty of the Department to collect or to retain the tax amount, which is not due to it, and is legitimately due to an assessee.

12. Reference is made to Paragraph No.12 of the aforesaid Judgment, wherein the Hon'ble Supreme Court held as under:-

> "*12. For the aforementioned reasons, we are of the view that denial of benefit of the notification to the appellant was unfair.* ***There can be no doubt that the authorities functioning under the Act must, as are in duty bound, to protect the interest of the Revenue by levying and collecting the duty in accordance with law — no less and also no more. It is no part of their duty to deprive an assessee of the benefit available to him in law with a view to augment the quantum of duty for the benefit of the Revenue. They must act reasonably and fairly.***"

13. Considering the fact that the application for condonation of delay was filed only on 05.02.2024, there shall be a direction to the petitioner to pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) by way of Demand Draft, directly to the Chairman / Honorary Secretary, Blue Cross of India (BCI), Blue Cross Avenue, No.72, Velacherry Road, Guindy, Chennai – 600 032 within a period of thirty (30) days from the date of receipt of a copy of this order as cost.

14. In case the Petitioner complies with the above stipulation, it will be construed that the impugned Order has been quashed in which case the Assessing Officer/Assessing Unit is directed to pass a fresh assessment order for the assessment year 2023-2024, in accordance with law.

15. This Writ Petition stands disposed of with the above observations. No costs.

06.01.2026

Index : Yes/No
Neutral Citation : Yes/No
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