IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	08.12.2025
Pronounced on	10.03.2026

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.32463 of 2025
and
W.M.P.No.36386 of 2025

M/s.Grace Gated Community LLP
(Represented by its Authorized Signatory)
New No.111, Old No.59, 5th floor
NPL Devi, LB Road, Thiruvanmiyur
Chennai - 600 041
PAN: AAQFG2772F … Petitioner

Vs.

1. The JCIT, ITA Cell
   The Central Board of Direct Taxes
   B Block, Civic Center
   New Delhi – 110002.

2. The Principal Commissioner of Income Tax
   Central – 1,
   Income Tax Department,
   No.108, Nungambakkam High Road,
   Chennai – 600034.

3. The Assistant Commissioner of Income Tax
   Central Circle - 1(3)
   Income Tax Department,
   No.108, Nungambakkam High Road,
   Chennai – 600034. … Respondents

Writ Petition is filed under Article of the 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records of the Writ Petitioner on the file of the first respondent to quash the impugned order dated 28.04.2025 passed u/s 119(2)(b) of the Income Tax Act, 1961 in DIN & Order No: F No.197/41/2021-ITA-1(Part File) pertaining to the Assessment year 2019-2020 and consequentially condone the delay in filing the return of income.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mr.A.N.R.Jayaprathap
Junior Standing Counsel

ORDER

This is the second round of litigation before this Court. In this Writ Petition, the petitioner has challenged the impugned Order dated 28.04.2025 passed by the 1st respondent whereby the request of the petitioner to condone the delay in filing the Return of Income under Section 139(1) of the Income Tax Act, 1961 for the Assessment Year 2019-2020 has been rejected.

2. The request has been rejected on the ground that the petitioner has not shown a reasonable cause for condoning the delay in filing the Return of Income for the Assessment Year 2019-2020.Relevant portion of the impugned

order dated 28.04.2025 is extracted hereunder:-

> *"9. Thus, no reasonable cause has been shown or established to justify the claim of genuine hardship under section 119(2)(b) of the Act. It has been submitted that the denial to file return of income and the consequent tax demand would cause genuine hardship to it. It should be noted that disallowance of any claim will normally lead to hardship. The legislature has provided time limits for certain obligation under the Act and these time limits have to be observed to be able to claim those deductions. This may not be termed as hardship but it is compliance requirements imposed by law in the interest of proper regulation of the Act. If these time limits were to be relaxed in a particular case on mere fact that a default occurred due to some inadvertence then there will be no sanctity of limitation prescribed by the legislature. Therefore, power of condonation u/s 119(2) can be exercised to deal with the reasonable cause only which would have led to delay in statutory compliance and the same cannot be exercised routinely. Hon'ble Courts have held that there should be reasonable cause & delay should be explained properly. Power conferred u/s 119(2) can't be used to condone the cases where there is no reasonable cause or lack of due diligence on the part of the petitioner.*
>
> *10. In the case of **B. U. Bhandari Nandgude Patil Associates v. CBDT**, the Hon'ble High Court of Delhi has stated that statutory time limits fixed have to be adhered to as it ensures timely completion of assessments. Discipline on time limits regarding filing of return have to be complied and respected, unless compelling and good reasons are shown and established for grant of extension of time. Extension of time cannot be claimed as a vested right on mere asking and on the basis of vague assertions without proof. The assertions made to justify extension of time have to be proved and*

established. Any indulgence on the pretext that the petitioner has been denied benefit u/s 80-1BA of the Act, which on merits would have been allowed, would be contrary to law, if it is held that there was no reasonable ground or reason for extension of time in filing of return of income."

3. The last date for filing return under Section 139(1) of the Income Tax Act, 1961 for the Assessment Year 2019-2020 expired on **31.07.2019**. The last date for filing return under Section 139(4) of the Income Tax Act, 1961 expired on **31.12.2019**.

4. However, by the Central Board of Direct Taxes by its Notification extended the last date for filing Return of Income under Section 139(1) of the Income Tax Act, 1961 to **31.08.2019** and thereafter to **31.10.2019**. Thus, the last date for filing Return of Income under Section 139(1) of the Income Tax , 1961 for the Assessment Year expired on 31.12.2019.

5. The petitioner however filed the Return of Income under Section 139(5) of the Income Tax Act, 1961 for the Assessment Year 2019-2020 only on **04.02.2020** with a delay of 95 days which was thereafter processed under Section 143(1) on **29.09.2020**. There, the benefit of Section 80IBA of the Income Tax Act, 1961 was denied to the petitioner.

6. Under these circumstances, the petitioner approached the 1st respondent by filing a petition on 29.12.2020 under Section 119(2)(b) of the Income Tax Act, 1961 for condoning the aforesaid delay of 95 days in filing of Return of Income under Section 139(1) of the Income Tax Act,1961.

7. The reasons stated in the application filed for condoning the delay in filing Return of Income are as follows:-

i. *The concerned official of the petitioner's Company namely Ravi, Vice President, Finance resigned from the Company on 25.10.2019.*

ii. *the Tax Audit Report was completed and made ready on 31.10.2019 and the tax audit report in Form 3 CD and Form 29 C was submitted along with Audited financial statement on 31.10.2019 i.e. the extended due date for Assessment Year 2019-2020.*

iii. *Since all the statutory compliances were to be completed despite the resignation of the designated accountant of the NTT, the Return of Income was not filed in time by the due date viz., on 31.10.2019.*

iv. *The Petitioner Company was implementing new accounting software in SAP and thus, there was a delay in filing Return of Income by the due date on 31.10.2019.*

8. Earlier, an order was passed on 06.10.2023 by the 1st respondent, whereby the said application dated 29.12.2020 filed under Section 119(2)(b) of the Income Tax Act, 1961 for condoning the delay of 95 days in filing of the Return of Income on 04.02.2020 instead of the due date of 31.10.2019, was rejected by the 1st respondent. Aggrieved by order dated 06.10.2023, the Petitioner filed W.P.No.1919 of 2024 before this Court.

9. By an Order dated 05.09.2024 in W.P.No.1919 of 2024, the aforesaid order dated 06.10.2023 of the 1st respondent was quashed and the case was remitted back to the 1st respondent to pass a fresh order on merits after giving an opportunity of being heard to the petitioner.

10. It is in this background, the impugned order dated 28.04.2025 has been passed by the 1st respondent, whereby the aforesaid request of the petitioner has been once again rejected by following the decision of the Delhi High Court in **B. U. Bhandari Nandgude Patil Associates v. CBDT** *[(2018) 164 DTR 201]*

11. The learned counsel for the petitioner has also placed reliance on the decision of this Court in **W.P.Nos.39208** and **39209 of 2015** dated 31.01.2020

and on the decision of the Hon'ble Supreme Court in **B. M. Malani v. Commissioner of Income Tax.** 306 ITR 196.

12. That apart, it is submitted by the learned counsel for the petitioner that although Section 80AC of the Income Tax Act, 1961 was amended only in the year 2018 *vide Finance Act 2018 w.e.f. 01.04.2018*, which mandated filing of Return of Income in time for claiming of deduction under Section 80 IBA of the Income Tax Act, 1961, it was not noticed by the Petitioner only later therefore there was a delay of 95 days in filing the Return of Income on **04.02.2020**.

13. On the other hand learned counsel for the respondent submitted to claim the benefit of Section 80 IBA (2) of the Income Tax Act, 1961, the petitioner should have obtained completion Certificate from the competent authority. It is submitted that the petitioner has obtained certificate only from a registered Architect stating that the project was completed. It is submitted that the Petitioner has not satisfied the requirement of Section 80 IBA (2) of the Income Tax Act, 1961.

14. By way of rejoinder, the learned counsel for the petitioner submitted that the project was implemented outside the jurisdiction CMDA in Tiruporur

Taluk, Thalambur Panchayat/Village, Kancheepuram District, and therefore the area of land used for construction exceeded the minimum required 2000 Sq. Mt as per Section 80 IBA of Income Tax Act, 1961.

15. The learned counsel for the Respondent would further submit that the order impugned does not suffer from any bias warranting any interference under Article 226 of the Constitution of India. It is further submitted that the impugned order is strictly in accordance with the Circular of the Central Board of the Direct Taxes.

16. That apart, the learned counsel for the Respondent submitted that SINCE the petitioner has not produced any document to substantiate that the petitioner has completed project from the competent authority as is required u/s. 80 IBA (2B) (II) as defined in Section 80 IBA (6B), and the impugned order does not merit any interference particularly when the return was not filed in time. Hence, prays for allowing the present Writ Petition.

<u>DISCUSSION:-</u>

17. I have considered the arguments advanced by the learned counsel for the petitioner and learned Junior Standing Counsel for the respondents.

18. As per Section 80AC(ii) of the Income Tax Act, 1961, an Assessee is required to file the Return of Income within the due date stipulated under Section 139(1), to claim deductions under the Heading "**C.- Deductions in respect of Certain Incomes**", under the provisions of Chapter VI-A, of the Income Tax Act, 1961. This is the statutory requirement for Assessment Year commencing from 1st day of April, 2018.

19. As per Section 80AC(1) of the Income Tax Act, 1961, no deduction is admissible under Section 80-IA or Section 80-IAB or Section 80-IB or Section 80-IC or Section 80-ID or Section 80-IE for the Assessment Year commencing on or after the 1st day of April, 2006, but before the 1st day of April, 2018, no deduction is admissible, if no Return of Income has been filed under Section 139(1) of the Income Tax Act, 1961 in time.

20. Similarly, under Section 80AC(ii) of the Income Tax Act, 1961, no deduction is admissible under any provision of Chapter VI-A of the Income Tax Act, 1961 under the heading "**C.—Deductions in respect of certain incomes**", if no Return of Income has been filed under Section 139(1) of the Income Tax Act, 1961 for the Assessment Year commencing from **1st day of April, 2018.**

21. Text of Section 80AC of the Income Tax Act, 1961 is reproduced below in the form a Table for the sake of clarity:-

Section 80AC	***Deduction not to be allowed unless return furnished.***
- Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after -	
(i)	*(ii)*
the 1st day of April, 2006 but before the 1st day of April, 2018, any deduction is admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE;	*the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading "C.-Deductions in respect of certain incomes",*

22. Though in the application filed before the 1st respondent, it was stated that the petitioner was denied the benefit of the deduction under Section 80IBA, in view of the delay in filing the Return of Income in time, in the affidavit filed in support of the present Writ Petition, the petitioner has pleaded his entitlement to the benefit of Section 80IAB of the Income Tax Act, 1961.

23. Both Section 80 IBA and Chapter Section 80IAB of the Income Tax Act, 1961, fall under Part-C of Chapter VIA of the Income Tax Act, 1961. Part C of Chapter VIA of the Income Tax Act, 1961 deals with “Deductions in

respect of Certain Incomes". Part C in Chapter VIA of the Income Tax Act, 1961 has 55 provisions. It begins with Section 80H and ends with 80TT.

24. To be eligible to claim deduction under Section 80-IBA and / or Section 80-IAB, read with Section 80AC of the Income Tax Act, 1961, the Petitioner should have filed Return of Income under Section 139(1) of the Income Tax Act, 1961, by the due date i.e., 31.10.2019, or by the extended date on 04.02.2020. This is evident from the language of Section 80AC(ii) of the Income Tax Act, 1961.

25. The delay in filing the Return of Income under Section 139(1) of the Income Tax Act, 1961, can be condoned by the 1st respondent in exercise of power under Section 119(2)(b) of the Income Tax Act, 1961, under exceptional circumstances. It is for further reason that the Central Board of Director Taxes (CBDT) has also issued guidelines for the 1st respondent to exercise discretion while condoning the delay.

26. The guiding factor for condoning the delay under Section 119(2)(b) of the Income Tax Act, 1961 is that the failure to comply is due to circumstances beyond the control of the assessee, and such compliance was carried out before

the completion of assessment. Section 119(2)(c) is extracted hereunder :-

*"**119. Instructions to subordinate authorities.**-*

(1) .....

(2) Without prejudice to the generality of the foregoing power,-

(a) .....

(b) .....

(c) 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 for reasons to be specified therein, relax any requirement contained in any of the provisions of Chapter IV or Chapter VI-A, where the assessee has failed to comply with any requirement specified in such provision for claiming deduction thereunder, subject to the following conditions, namely:- [Inserted by Act 49 of 1991, Section 42 (w.e.f. 1.10.1991).]

(i) the default in complying with such requirement was due to circumstances beyond the control of the assessee; and

(ii) the assessee has complied with such requirement before the completion of assessment in relation to the previous year in which such deduction is claimed:

Provided that the Central Government shall cause every order issued under this clause to be laid before each House of Parliament.]"

27. A reading of the facts on record reveals that the petitioner's former Vice President had resigned on **25.10.2019** i.e. 6 days before the due date for

filing the Return of Income expired on **31.10.2019** under Section 139 of the Income Tax Act, 1961 for the **Assessment Year 2019-2020**. There was a delay in filing the Return of Income for the Assessment Year 2019-2020, as the Return of Income was eventually filed only on **04.02.2020**.

28. The delay also is attributable to the implementation of SAP (Systems, Applications, and Products in Data Processing). It could have contributed to the delay in the filing of the Return of Income under Section 139(1) of the Income Tax Act, 1961, for the Assessment Year 2019-2020.

29. There are no indication that the petitioner was a chronic defaulter to dis-entitle the benefit of Deduction under Heading C of Chapter IVA. Therefore, the delay ought to have been condoned.

30. That apart, an assessee would not gain by not filing Return of Income in time under Section 139(1) of the Income Tax Act, 1961, if filing Return of Income in time was crucial for claiming the benefit of deduction under the Act. Since, the delay is marginal, I'm of the view that the Respondent would condoned the delay, but for the above circular which is binding on the 1st Respondent.

31. Therefore, such delay in filing the Return of Income should not come in the legitimate claim for Deduction, if such delay can be condoned. Filing of Return of Income in time is to be held directory and not mandatory, if such Return of Income is eventually filed within a reasonable period of time, as there is a reasonable cause for such delay. Further procedures are handmaids to justice and not its mistress as held by the Hon'ble Supreme Court in the case of **Commissioner of Sales Tax** Vs. **Auriya Chambers of Commerce**, (1986) 3 SCC 50 : 1986 SCC (Tax) 449 : (1987) 167 ITR 458 : (1986) 62 STC 327. Therefore, substantive benefits should not be denied.

32. In this context, it would also be appropriate to refer to the order of this Court in T.C.A.No.294 & Batch of 2018. There, this Court while sitting on appeal under Section 260A of the Income Tax Act, 1961, has observed as under:-

> ***"117. It is our prima facie view that claiming deduction in the Return of Income under Section 139(1) of the IT Act though was only procedural and the restrictions in Section 80AC of the Act as inserted for the first time in the IT Act vide Finance Act, 2006 with effect from 01.04.2006 was directory and not mandatory. However, such a declaration can be made by this Court only under Article***

226 of the Constituion of India and not under Section 260A of the Income Tax Act, 1961. In case such challenge is made, the Court will independently decide the issue.

118. Therefore, the benefit of Section 80IB(10) of the IT Act can be claimed by the Assessee for the Assessment Year 2007~2008 onwards subject to a valid challenge to Section 80AC of the IT Act in a separate and collateral proceeding following the ratio of the Hon-ble Supreme Court in Auriya Chambers of Commerce, Unichem Laboratories Limited and Formica India Division (cited supra)."

33. In this case, the petitioner has approached the respondents to condone the delay. I am of the view the delay has to be condoned in the facts of the present case.

34. In view thereof, this Writ petition deserves to be allowed and is accordingly allowed, with consequent relief. Connected Miscellaneous Petitions are closed. No costs.

10.03.2026

gv/raja

Neutral Citation: Yes/No

To

1. The JCIT, ITA Cell
   The Central Board of Direct Taxes
   B Block, Civic Center
   New Delhi – 110002.

2. The Principal Commissioner of Income Tax
   Central – 1,
   Income Tax Department,
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C.SARAVANAN, J.

raja

Pre-Delivery Order in
W.P.No.32463 of 2025

10.03.2026