IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE SUDDALA CHALAPATHI RAO

WRIT PETITION NO: 34360 OF 2026

Between:

Susheela Devi Vicharapu, W/o. Jana Padma Seshu Kumar, aged about 64 years, Occ. Retired Chief General Manager (Finance), Power Grid Corporation of India Limited, R/o. H.No.8-3-191/104 (20-B), Vengal Rao Nagar, Ameerpet, Hyderabad - 500 038, Telangana.

...PETITIONER

AND

1. Union of India, represented by its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi - 110 001.
2. Central Board of Direct Taxes, represented by its Chairman, North Block, New Delhi - 110 001.
3. The Principal Commissioner of Income Tax, Hyderabad-4, Room No. 211, 2nd Floor, A-Block, Income Tax Towers, A.C. Guards, Masab Tank, Hyderabad - 500 004.
4. The Deputy Commissioner of Income Tax, Circle-13(1), Hyderabad, Income Tax Towers, A.C. Guards, Masab Tank, Hyderabad - 500 004.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or Direction, more particularly one in the nature of a Writ of Mandamus, declaring the Order dated 30.07.2026 bearing DIN and Order No.ITBA/COM/F/17/2026-27/1091638004(1) passed by the 3rd Respondent under Section 119(2)(b) of the Income-tax Act, 1961 rejecting the Petitioner's application for condonation of delay in filing a revised return of income for the Assessment Year 2023-24 as illegal, arbitrary, being non-speaking and in violation of principles of natural justice, contrary to Section 119(2)(b) of the Income-tax Act, 1961 and

violative of Articles 14 and 265 of the Constitution of India, and consequently set aside the same and direct the 3rd Respondent to condone the delay and permit the Petitioner to file a revised return of income for the Assessment Year 2023-24 claiming exemption under Section 1 0(10AA)(ii) of the Income-tax Act, 1961 in terms of Notification No 31/2023 dated 24.05.2023.

Counsel for the Petitioner: SRI T. PRADYOTH

Counsel for the Respondent No.1: SRI. N BHUJANGA RAO
DEPUTY SOLICITOR GENERAL OF INDIA
Counsel for the Respondent Nos.2 to 4: SRI K. SUDHAKAR REDDY,
SC FOR INCOME TAX DEPARTMENT

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

HON'BLE THE ACTING CHIEF JUSTICE P.SAM KOSHY
AND
HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

WRIT PETITION NO.34360 OF 2026
(CNR NO.HBHC010708162026)

DATE: 28.10.2026

Between:

Susheela Devi Vicharapu

.... Petitioner

and

Union of India, rep.by its Secretary,
Ministry of Finance, Department of Revenue,
New Delhi and three others.

.... Respondents

ORDER: *(per Hon'ble Sri Justice Suddala Chalapathi Rao)*

Heard Mr. T.Pradyoth, learned counsel for the petitioner and Mr. K.Sudhakar Reddy, learned Senior Standing Counsel for Income Tax Department appearing for respondent Nos.2 to 3.

2. The present Writ Petition has been filed seeking to grant the following relief:

> "... to issue a Writ, Order or Direction, more particularly one in the nature of a Writ of Mandamus, declaring the order dated 30.07.2026 bearing DIN & Order No.ITBA/COM/F/17/2026-27/1091638004(1) passed by the 3rd respondent under Section 119(2)(b) of the Income Tax Act, 1961, rejecting

the petitioner's application for condonation of delay in filing a revised return of income for the Assessment Year 2023-24, as illegal, arbitrary, being non-speaking and in violation of principles of natural justice, contrary to Section 119(2)(b) of the Income Tax Act,1 961, and violative of Articles 14 and 265 of the Constitution of India, and consequently to set aside the same and direct the 3rd respondent to condone the delay and permit the petitioner to file a revised return of income tax for the said assessment year 2023-24 claiming exemption under Section 10(10AA)(ii) of the Income Tax Act, 1961 in terms of Notification No.13/2023 dated 24.05.2023 and pass ..."

3. The brief facts of the case are that, petitioner was an employee, in the Executive cadre, of Power Grid Corporation of India, being Employee No.60030116, and retired from service on superannuation on 31.03.2023, upon attaining the age of 60 years. Upon such retirement, the petitioner became entitled to various terminal benefits, including the cash equivalent of the leave salary (encashment of earned leave and half pay leave) aggregating to Rs.22,54,070/-, as reflected in the petitioner's Income Tax Return for the Assessment Year 2023-24. A part of the said retiral dues, including encashment of 300 days of Half Pay Leave amounting to Rs.15,16,191/- was regulated and paid through his salary from May, 2022 *vide* letter dated 31.05.2022 issued by the General

Manager (Finance), employer of the petitioner. Thereafter, it is stated that the employer Corporation issued a certificate of tax deducted at source in Form No.16 (Parts A and B) for the period from 01.04.2022 to 31.05.2022. relevant to the Assessment Year 2023-24, on 29.05.2023 and in the said certificate, the employer did not grant any exemption under Section 10 (10AA) of the Income Tax Act, 1961, (for short, 'Act, 1961) in respect of leave encashment, treated the entire amount as taxable salary allowing the leave encashment upto Rs.3,00,000/- and deducted tax at source of Rs.16,37,750/- for the said financial year. It is stated that, as on the date, on which the terminal benefits along with leave encashment amount paid to the petitioner, the exemption limit in respect of leave encashment was Rs.3,00,000/-, as fixed by the Central Government in the year 2002, which remained unchanged for over two decades and *vide* Notification No.31/2023, dated 24.05.2023 (S.O. 2276(E)), the Central Government enhanced the exemption limit to Rs.25,00,000/- under Section 10(10AA) (ii) of the Act, 1961 and stated that the said notification shall be deemed to have come into force with effect from 01.04.2023.

4. The petitioner filed her income tax return for the Assessment Year 2023-24 in Form ITR-2 on 22.06.2023, within the due date prescribed under Section 139(1) of the Act, 1961 *vide* acknowledgment No.278246070220623, claiming exemption of Rs.3,00,000/- towards leave encashment. Subsequently, by virtue of the said Notification No.31/2023, the exemption limit of Rs.3,00,000/- was enhanced to Rs.25,00,000/-, and the said notification being beneficial in nature, the petitioner claims entitlement to benefit there under. The petitioner retired on 31.05.2023 and in view of the restriction imposed by the employer upto Rs.3,00,000/-, the petitioner claims entitlement to the enhanced benefit as it is also extended to the Non-Government Employees.

5. It is further stated that, by the time the petitioner became aware of the applicability of the said notification and the enhanced exemption limit, the prescribed time for filing a revised return of income under Section 139(5) of the Act, 1961, for the Assessment Year 2023-24, has expired. Therefore, petitioner was constrained to move an application dated 13.07.2026 before the 3rd respondent under the provision of Section 119(2)(b) of the Act, 1961, seeking

condonation of delay and permission to file a revised return of income for the Assessment Year 2023-24. It is also the case of the petitioner that application was made well within the period of five years from the end of the Assessment Year 2023-24. The 3rd respondent issued impugned order dated 30.07.2026, rejecting the petitioner's application.

6. It is contended by the learned counsel for the petitioner that the 3rd respondent rejected the case of the petitioner as he was superannuated from the respondent-Corporation in the financial year 2022-23 and had received terminal dues including leave encashment by holding that the Notification No.31/2023 is applicable prospectively only to persons who retired on or after 01.04.2023 and by placing reliance upon the judgment of the High Court for the State of Kerala in WP(C) No.3145 of 2022 and connected cases, the 3rd respondent rejected the request of the petitioner for condonation of delay in filing the revised income tax return.

7. Aggrieved by the same, the present writ petition is filed assailing the impugned order.

8. Learned counsel for the petitioner would contend that the power under Section 119(2)(b) of the Act, 1961, is conferred on the competent authority for the avoidance of genuine hardship and the enquiry contemplated there under is whether the case is one of genuine hardship and whether the claim is *prima facie* genuine, and does not contemplate a final adjudication on the merits of a debatable question of law. It is further contended that Notification No.31/2023 is a beneficial notification and as there was no suppression of any material fact, as on the date of issuance of Form-16, the petitioner has submitted the same. The notification No.31/2023, enhancing the exemption limit to Rs.25,00,000/-, applies to the employees who retired even prior to 01.04.2023, and that the said notification is applied to many of the similarly situated persons across the country, along with the various Income Tax Appellate Tribunal Benches held that the Notification No.31/2023 being beneficial in nature to all those who retired prior to 01.04.2023. The learned counsel thus prays to condone the delay by setting aside the impugned order by directing the 3rd respondent to accept the revised return of income.

9. *Per contra,* learned Senior Standing Counsel appearing for the respondent Nos.2 to 4, vehemently contended that in fact, the competent authority i.e., 3rd respondent, has already considered the issue and placing reliance upon the judgment of the Hon'ble High Court of Kerala (supra) has rightly rejected the petitioner's contention. It is further contended that, since the notification was issued subsequent to the petitioner's retirement, the said notification would be effective prospectively and therefore, the said notification would not be applicable to the present case.

10. On a perusal of the record, evidently, as on the date of the petitioner's retirement from the services of the respondent-Corporation, Form No.ITR2 specifically reflected the exemption in respect of leave encashment is only Rs.3,00,000/-. Subsequently, by virtue of Notification No.31/2023, dated 24.05.2023, the said exemption limit was enhanced to Rs.25,00,000/- and said notification was issued for the benefit of the employees, more so is a beneficial legislation. In the present case, the petitioner has duly disclosed the terminal benefits received at the time of retirement and claimed exemption only to the extent of Rs.3,00,000/- as was permissible at the relevant point of time. The petitioner has not

suppressed any income that was derived out of the terminal benefits. Furthermore, several Benches of Income Tax Appellate Tribunal being quasi-judicial Tribunals have already taken a similar view and extended the benefit of the said notification to similarly situated employees of the respondent-Corporation and other public sectors and denial of the same to the petitioner is discriminatory, more particularly when there is no allegation of suppression of material facts. Thus, the impugned orders are not valid in the eye of law and liable to be set aside.

11. We respectfully disagree with the decision relied upon by the 3rd respondent in W.P.(C).No.3145 of 2022 and batch on the file of Hon'ble High Court of Kerala, and normally all the terminal benefits would relate from the date of joining till superannuation shall be computed and thus, the petitioner has made out a case for warranting interference with the impugned orders.

12. Therefore, in view of the above aforesaid facts and circumstances, the impugned proceedings, dated 30.07.2026 are hereby set aside, and the delay in filing the said application is hereby condoned, and the matter is remanded back to the 3rd

respondent with a direction to afford an opportunity to the petitioner to file the revised returns and on such filing, the 3rd respondent shall consider the same and pass appropriate orders strictly in accordance with law, by duly extending the benefit available under the Notification No.31/2023 dated 24.05.2023.

13. With the aforesaid directions, the Writ Petition stands allowed accordingly. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

SD/- P.S. SULEKHA DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary, Union of India, Ministry of Finance, Department of Revenue, North Block, New Delhi - 110 001.
2. The Chairman, Central Board of Direct Taxes, North Block, New Delhi - 110 001.
3. The Principal Commissioner of Income Tax, Hyderabad-4, Room No. 211, 2nd Floor, A-Block, Income Tax Towers, A.C. Guards, Masab Tank, Hyderabad - 500 004.
4. The Deputy Commissioner of Income Tax, Circle-13(1), Hyderabad, Income Tax Towers, A.C. Guards, Masab Tank, Hyderabad - 500 004.
5. One CC to Sri T. Pradyoth, Advocate [OPUC]
6. One CC to Sri N. Bhujanga Rao, Deputy Solicitor General of India [OPUC]
7. One CC to Sri K. Sudhakar Reddy, SC for Income Tax Department[OPUC]
8. Two CD Copies

TJ

HIGH COURT

DATED: 28/10/2026

ORDER

WP.No.34360 of 2026



ALLOWING THE WRIT PETITION

WITHOUT COSTS

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