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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 3651/2026, CM APPL. 17806/2026 & CM APPL. 17807/2026

DELHI MAHARASHTRIYA EDUCATIONAL 7 CULTURAL SOCIETY (REGD) .....Petitioner

Through: Mr. Vivek Sarin, Ms. Divyanshi Singh and Mr. Devansh Aeron, Advs.

versus

COMMISSIONER OF INCOME TAX (EXEMPTIONS) DELHI AND ORS .....Respondent

Through: Mr. Abhishek Maratha, SSC, Mr. Apoorv Agarwal, Mr. Viplav Acharya, JSCs with Ms. Nupur Sharma, Mr. Bhanukaran Singh Jodha, Mr. Himanshu Gaur and Mr. Gaurav Kumar Arya, Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **20.03.2026**

1. It is a sorry state of affairs that the petitioner has to approach this Court once again, within a short span of six months, for a grievance, which ought to have been redressed at the first stage i.e. at the level of the Income Tax Department itself.

2. The facts are bereft of any complexities and the case is straight. The petitioner being a charitable religious trust has been enjoying exemption under Sections 11 to 13 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*).

3. Undisputedly, the petitioner has filed its return of income well within the time and it claims to be strict by law compliant. However, due to an inadvertence or otherwise, while furnishing the return for Assessment Year (AY) 2018-19 on 31.10.2018 (being last date of filing return), though the return was uploaded but the audit report under Form 10B was omitted to be uploaded.

4. As per the facts pleaded and found to be correct during the previous writ proceedings in [W.P.(C) 15601/2025], the petitioner had with it the audit report dated 30.09.2018 in the prescribed Form 10B.

5. No sooner did the petitioner realized this mistake, than it filed the same (audit report online) on 16.11.2018 on the Income Tax Business Application Portal (ITBAP).

6. On 23.03.2020, the Assessing Officer(AO)-respondent No.2 passed an intimation order under Section 143(1) of the Act of 1961 and raised a demand of Rs.2,23,53,562/- against the petitioner, denying the exemption for want of the audit report in the prescribed Form 10B.

7. While passing the assessment order, the AO had simply observed that since the audit report was not furnished along with the return, the petitioner was not entitled for exemption under Sections 11 to 13 of the Act of 1961.

8. It is pertinent to note that even petitioner's rectification application dated 06.04.2021 did not find favour of the AO-respondent No.2 and vide rectified intimation order dated 24.12.2021 issued under Section 154 of the Act of 1961, the rejection of the exemption under Section 11 of the Act of 1961 was reiterated. Resultantly, the demand, which he had raised vide intimation under Section 143(1) of the Act of 1961 remained intact.

9. Faced with such situation, the petitioner moved an application on

23.02.2022 under Section 119(2)(b) of the Act of 1961 before the Commissioner of Income Tax (Exemptions), Delhi (*hereinafter referred to as 'the Authority'*), who rejected the same vide his order dated 14.06.2024, *inter-alia*, observing that the delay of 16 days, which the petitioner had caused in furnishing the audit report was not justified.

10. The petitioner assailed such rejection and the action of the respondents by way of filing W.P.(C) 15601/2025, which came to be allowed vide a detailed judgment of this Court dated 28.10.2025.

11. While dilating upon the law on the subject and interpreting the provision, the Court had practically held that the delay of 16 days was *bona-fide* and could not have refused to be condoned, however remanded the matter back to the Authority for deciding the issue afresh, in a hope that the Authority shall decide the same with objectivity.

12. The respondents have simply shattered such faith of the Court in the sense that they passed an order afresh on 17.12.2025, reproducing the previous order 'word for word'; 'dot to dot', the only exception being, the use of expression "**In light of the Hon'ble High Court's Order and considering the facts of the case"** and the date inscribed thereon.

13. We are shocked to see such an order passed by an officer, as high as the Commissioner of Income Tax. We are therefore constrained to set aside this order. However, we refrain from remanding the matter back to the Authority. The impugned order of the Authority dated 17.12.2025 is therefore, quashed and set aside.

14. In para no.32 of the order dated 28.10.2025, this Court had given cogent reasons to hold that the delay of 16 days was *bona-fide*. That apart, it was only an error of form and not substance. Unless there is reasonable and

genuine doubt about the activities of the petitioner or for that matter, any trust, the respondents can take any action deemed expedient but for such trivial mistakes, which can happen at anybody's end, such an extreme decision to even refuse to grant indulgence and reject application under Section 119(2)(b) of the Act of 1961 should not be taken. The approach of the authorities should be to effectively and objectively use their powers to remove hardship of the assessees. Because refusal to accept audit report or the subjectivity which the Authority has shown has resulted in a demand as high as Rs.2,23,53,562/- that too in the hands of a charitable institution.

15. The intimation order dated 23.03.2020 under Section 143(1) of the Act of 1961, which essentially is based upon the so called failure on the part of the assessee to upload/furnish audit report along with return and rectified intimation order dated 24.12.2021 under Section 154 of the Act of 1961 passed on the rectification application are hereby set aside. The impugned order of the Authority dated 17.12.2025 is also quashed.

16. As a result, the petitioner's application under Section 119(2)(b) of the Act of 1961 is hereby allowed. The delay of 16 days in uploading/furnishing the audit report in Form 10B is hereby condoned. The Form 10B shall be treated to have been filed along with the return.

17. The AO is directed to pass a formal order of setting aside the demand and issue a certificate/order of **'NIL'** demand to the petitioner, within a period of four weeks from today.

18. Needless to mention that since the intimation order dated 23.03.2020 stands set aside, no action shall be taken against the petitioner for enforcement of the demand.

19. Pending application(s) disposed of.

20. By parting with the judgment, we wish to add that Mr. Abhishek Maratha, learned Senior Standing Counsel for the Department had made all sincere efforts to justify the impugned order and to satisfy the Court that the Authority was *bona-fide*. And since the delay in furnishing/uploading of the Form was admitted, he might have been swayed by the revenue/consideration.

21. We think that the Authority while deciding the application under Section 119(2)(b) of the Act of 1961 should try to mitigate the hardship meted out to the assessees and he should show objectivity rather than being influenced by the object of revenue.

22. We make it very clear that we have not set aside the order of the Authority on the ground of the malice but on the ground that it is an affront to the order dated 28.10.2025 passed by the High Court, in petitioner's earlier writ petition.

DINESH MEHTA, J

VINOD KUMAR, J

MARCH 20, 2026/*cd*