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

% Judgment delivered on:*28.10.2025*

\+ **W.P.(C) 15601/2025 & CM APPL. 63884/2025**

DELHI MAHARASHTRIYA EDUCATIONAL AND CULTURAL SOCIETY THROUGH AUTHORISED REPRESENTATIVE .....Petitioner

versus

COMMISSIONER OF INCOME TAX (EXEMPTIONS), DELHI & Ors .....Respondents

Advocates who appeared in this case

For the Petitioner : Mr Vivek Sarin, Mr Dhurv Devgupta, Ms Divyanshi Singh, Mr Satish C Kaushik, Mr Abhishek Jain, and Mr Devansh Aeron, Advocates.

For the Respondent : Mr Abhishek Maratha, SSC, Mr Apoorv Aggarwal, Mr Parth Samwal, JSCs, Ms Nupur Sharma, Mr Gaurav Singh, Mr Bhanukaran Singh Jodha, Ms Muskan Goel, Mr Himanshu Goel and Mr Nischay Purohit, Advocates.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT

V. KAMESWAR RAO, J.

1. The petition been filed by the petitioner against an order dated 14.06.2024 passed by the Commissioner of Income Tax (Exemptions)

/respondent no.1 under Section 119 (2) (b) of the Income Tax Act, 1961 ('the Act') for the Assessment Year (AY) 2018-19, against the order dated 24.12.2021 passed by respondent no.2 under Section 154 of the Act and intimation letter dated 23.03.2020 issued by the respondent no.2 under Section 143(1) of the Act for the AY 2018-19, with the following prayers:-

> *"a. Issue a writ order or direction in the nature of certiorari or certiorarified mandamus or any other suitable writ or direction, calling the record relating to the order dated 14.06.2024 passed by Respondent No.1 under Section 119(2)(b) of ITA, 1961 for AY 2018-19 and set aside the same; and*
> *b. Issue a writ order or direction in the nature of certiorari or certiorarified mandamus or any other suitable writ or direction, calling the record relating to the order dated 23.03.2020 passed by Respondent No.2 under Section 143(1) of ITA, 1961 for AY 2018-19 and set aside the same; and*
> *c. Issue a writ order or direction in the nature of certiorari or certiorarified mandamus or any other suitable writ or direction, calling the record relating to the order dated 24.12.2021 passed by Respondent No. 2 under Section 154 of ITA, 1961 for AY 2018-19 and set aside the same; and*
> *d. Hold and declare that the Petitioner is entitled for exemption under Section 12(A) of ITA, 1961 as duly registered public charitable trust for AY 2018-19 and consequential direction be issued to Respondent No. 2; and"*

2. The petitioner is a society registered under the provisions of the Societies Registration Act, 1860 bearing Registration No.497, having its registered office at Aram Bagh, Walchand Palace, Paharganj, New Delhi-110055. The petitioner is engaged in the society welfare activities.

3. It was the case of the petitioner that it being a Charitable and

Religious Trust is taxable in accordance with the provisions of Section 11 to Section 13 of the Act. Whereas, Section 11 provides for exemption in respect of income derived from property held under trust for charitable or religious purposes to the extent to which such income is applied or accumulated during the previous year for such purposes, which is being claimed by the petitioner. The exemption is allowed on fulfillment of conditions specified in Section 11, Section 12, Section 12A, Section 12AA/12AB, and Section 13 of the Act.

4. On 30.09.2018, the audited financial for the AY 20108-19 along with the schedules were prepared by its chartered accountant along with a balance sheet as of 31.03.2018 and income and expenditure for the period 01.04.2017 to 31.03.2018 along with the schedules. On 31.10.2018, the petitioner filed its return of income under Section 139(4)(a) of the Act for AY 2018-19 by declaring NIL income after claiming exemptions under Section 11 and 12 of the Act. The return was filed within the period of extended limitation of filing returns for AY 2018-19 vide a operation of Circular F No. 255/358/2018/ITA.II dated 24.09.2018 & Circular No. F No.255/358/2018/ITA.II dated 08.10.2018 of the order under Section 119 of the Act. The return also disclosed the details of audited report dated 30.09.2018. However, the audit report could not be uploaded due to inadvertence error on the part of the auditor / tax professional.

5. On 15.11.2018, the petitioner came to the knowledge that the annexure in the form of office audit report was missed out and was not uploaded with the return. Upon realizing such an error, the petitioner filed audited report under Form 10B for the AY 2018-19 with the delay of 16

days on IT portal on 16.11.2018. On 23.03.2020, the respondent no.2 passed an intimation order under Section 143(1) of the Act without granting an exemption claimed by the petitioner under Section 11 and 12 of the Act thereby disallowing the exemption by stating that the return was filed with the purported delay of 16 days in filing the audit report in the prescribed Form 10B. The respondent no.2 thereby made a substantial demand of Rs.2,23,53,562/- against the petitioner.

6. On 24.12.2021, the respondent no.2 passed an order rectifying the intimation order dated 23.03.2020 issued under Section 154 of the Act affirming the disallowance of exemption claimed by the petitioner under Section 11 of the Act.

7. Aggrieved by the order passed by the respondent no.2, the petitioner filed an application under Section 119(2)(b) of the Act before the respondent no.1 for condonation of delay of 16 days in filing the audit report as per Form 10B. As per the application before the respondent no.1, the petitioner had stated that the delay was caused due to an inadvertent error on the part of its auditor / tax professional and the same has been rectified vide a uploading of the audit report on 16.11.2018. During the course of proceedings before the Deputy Commissioner of Income Tax (Exemptions) Headquarters, Delhi the petitioner was called upon to furnish additional details and clarification pertaining to the application filed by it on the question of delay in filing the audit report as per Form 10B for the AY 2018-19. The petitioner contended that they had complied with all the statutory conditions for exemption under Section 11 of the Act including filing of the returns under Section 139(4A) of the Act and the completion of the audit

within the stipulated time.

8. According to the petitioner, the petitioner relying upon the CBDT Circular No.2/2020 dated 03.01.2020 for condonation of delay under Section 119(2)(b) of the Act in filing of Form 10B for AY 2018-19 and subsequent years in the reply dated 17.05.2022, which expressly empowers the CIT to condone delays up to 365 days for AY 2018-19 on merits.

9. On 14.06.2024, the respondent no.1 passed an order rejecting the condonation application filed by the petitioner under Section 119(2)(b) of the Act on the ground that a clerical error committed on the part of the auditor/tax professional cannot be considered as a reasonable cause of delay. An appeal was filed by the petitioner against the said order before the Income Tax Appellate Tribunal (ITAT) *vide* a Form 36 numbered as ITA no.3195/DEL/2024. The ITAT vide a order dated 23.12.2024 condoned the delay of 16 days on merits by relying on various case law submitted in case law compilation and deemed it just and proper to direct the Assessing Officer to consider Form 10B available on record at the time of processing the return of income.

10. Aggrieved by the ITAT order, respondent no.1 filed an appeal before this Court in ITA No.373/2025. This Court vide a order dated 02.09.2025 in paragraph no.11 onwards has held as under:-

> *"11. In view of the submissions of the learned counsel for the parties as noted above, we allow the appeal and set aside the order passed by the ITAT as the appeal filed by the respondent before the ITAT challenging the order dated 14.06.2024 (for the AY 2018-19) of the CIT (Exemption) was not maintainable and as such the Tribunal could not*

have entertained the appeal and decided the same in the manner it has done.

12. Consequentially, the order passed by the ITAT on the merits of the issue raised by the respondent in the appeal is also set aside.

13. Accordingly, the appeal is allowed. The substantial questions of law are decided in favour of the appellant/ revenue and against the respondent.

14. Since the challenge was against the order dated 14.06.2024, which was not maintainable, liberty shall be with the petitioner to seek such remedy as available in law.

15. During the course of hearing, the learned counsel for the respondent has stated that the pursuant to the order of the ITAT the respondents have issued an appeal effect order dated 01.07.2025 and also amount of Rs.17,12,511/- has been credited in the account of the respondent/assessee.

16. It is made clear that the period during which the respondent was prosecuting the appeal before the ITAT and also this writ petition, the same shall not be taken into consideration for the purpose of computing delay/laches/ limitation."

11. Pursuant to the order of this Court, the petitioner filed this writ petition against the order passed by the respondent no.1 under Section 119(2) (b) of the Act dated 14.06.2024, rectification order dated 24.12.2021 passed by respondent No.2 under Section 154 of the Act; and intimation order dated 23.03.2020 passed by respondent No.2 under Section 143(1) of the Act for AY 2018-19.

12. Mr Vivek Sarin, learned counsel for the petitioner stated that the delay in filing Form 10B for the relevant AY and the legal principle of inadvertent delay in filing the same, with a reasonable cause for condonation of delay is a settled of law. In support of his submissions, he has relied upon the judgment of the Supreme Court in ***Commissioner of Income-tax***

(Exemptions) v. Al Jamia Mohammediyah Education Society, [2025] 176 taxmann.com 761 (SC); to contend that a long standing charitable trust with a consistent history of compliance cannot be non-suited due to a bona fide professional error, in the absence of any mala fides.

13. He submitted that although the delay was condoned by the ITAT, but an appeal filed by the Revenue before this Court had set aside the same, was due to the jurisdictional ground. The same cannot be said to have negated the finding of the ITAT on merits and on the circulars issued by the respondent no.4 and the liberty was granted to the Revenue to seek any such remedy as available in the law. Pursuant to the order dated 01.07.2025, the petitioner herein has approached this Court against the order of ITAT.

14. According to Mr Sarin, the respondent has erred in law and in fact while rejecting the application of the petitioner under Section 119(2) (b) of the Act seeking condonation of a bona fide delay of 16 days in filing the statutory audit report in Form 10B is without appreciating the fact that the delay was neither intentional nor any negligence on the part of the petitioner herein, an inadvertent error and oversight on the part of the tax professional cannot be the reason to not to condone the delay. It is also his submission that the impugned order denying the exemptions under Section 11 and 12 of the Act on a mere technicality of a minor delay has unjustly diverted substantial funds intended for charitable purpose which is contrary of benevolent scheme of the Act.

15. He submitted that the procedural delay was cured by the petitioner before the respondent no.2 initiating summary assessment proceedings and

before the time of passing the intimation order Section 143(1) of the Act, the mandatory audit report was available to the respondents before issuing any order. Therefore, mere procedural delay ought not to have been used as a ground to deny the substantive benefit of exemption under Sections 11 and 12 of the Act to which the petitioner was otherwise legitimately entitled, as the delay did not negate the satisfaction of the essential conditions for availing the exemption. On this ground alone, the summary assessment/ intimation order passed by respondent No. 2 is liable to be set aside.

16. In support of his submissions, he has relied upon the following decisions:

i) Al Jamia Mohammediyah Education Socicty v. Commissioner of Income-tax (Exemptions). [2024] 162 taxmann.com 114 (Bombay)
ii) Social Security Scheme of GICEA v. Commissioner of Income-tax (Exemptions). [2023].147 taxmann.com 283 (Gujarat)
iii) Sarvodaya Charitable Trust v. Income Tax Officer. (Exemption), [2021] 125 taxmann.com 75 (Gujarat)
iv) Society for Training Action Research and Rehabilitation v. Central Board of Direct Taxes. [2022] 176 taxmann.com 16 (Orissa)
v) Parul Mahila Pragati Mandal v. Income-tax Officer (Exemption). [2025] 175 taxmann.com 922 (Gujarat)
vi)Shilparamam Arts, Crafts and Cultural Society v. AddIJt/Dy/Assistant Commissioner of Income Tax/ITO, [2024] 158 taxmann.com 714 (Telangana)
vii) Commissioner of Income-tax, Maharashtra v. G.M. Knitting Industries (P)_Ltd., [2016]71 taxmann.com 35 (SC)
viii) Square Vision India (P.) Ltd. v. Principal Commissioner of Income-tax. [2025] 174 taxmann.com 735 (Delhi)

ix) Associated Chambers of Commerce and Industry of India v. Deputy Commissioner of Income-tax. [2024]165 taxmann.com 510 (Delhi)
x) Association of Indian Panelboard Manufacturer v. Deputy Commissioner of Income-tax, [2023]157 taxmann.com 550 (Gujarat)
xi) Commissioner of Income-tax-l v. AKS Alloys (P.) Ltd., [2012] 18 taxmann.com 25 (Mad.)

17. Having heard the learned counsel for the parties, the short issue which arises for consideration in this petition is whether the respondents are justified in passing the impugned order dated 14.06.2024, whereby, the application filed by the petitioner/assessee for condonation of delay in filing of Form-10(b) under Section 119(2)(b) of the Income tax Act (the Act) for the Assessment Year (AY) 2018-19, has been dismissed.

18. The respondents from Paragraph 5 of the impugned order onwards, has stated as under:

> *"5. The application's submission has been carefully perused. As evident the application has merely stated that "mistake was on the part of tax professional cum auditor". Therefore, the delay may be condoned;*
>
> *5.1 The applicant is seeking relief under sub-clause (b) of sub-section (2) of section 119 of the Act. The said section of the Act states as under:-*
>
> *"(2) Without prejudice to the generality of the foregoing power,-*
>
> *(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, not being 30[a- Joint Commissioner (Appeals) or] a*

Commissioner (Appeals) 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;"

5.2 It is clear from plain reading of the section that the condonation of delay can be granted only in those cases wherein the applicant makes out a case of genuine hardship resulting from such non-compliance within statutory timelines.

5.3 Furtl1er, the power to condone the delay in filing form No. 1O B has been delegated to CIT(E) vide circular no 16/2022. Para 3 of t11e referred circular reads as under:

"The Pr. Chief Commissioner !Chief Commissioner or Commissioner of Income Tax, as the case may be while entertaining such applications for condonation of dealy in filing From 10B shall satisfy themselves that the applicant was prevented by reasonable cause from filing such From within the stipulated time."

5.4 Tile issue regarding condonation of delay u/s 119(2)(b) l1as been discussed in detail by the Hon'ble High Court of Delhi in the case of M/s B.U Bhandari Nandgude Patil Associates (Writ Petition Civil No. 6537/2017). The relevant part of the order is as under:-

"The main issue raised by the assessee in this case is that the delay in audit has led to delay in filing of return which had led to his claim of 8018(10) being disallowed and this had caused genuine hardship to him. It should be noted first that disallowance of any claim will normally lead to hardship. The Legislature has provided time limits for certain obligations under the Act and these time limits have to be observed to be able to claim certain deductions, allowances and avoid interest and penalty. This may be termed a hardship but it is hardship imposed by law in the interest of proper regulation of the Act. If these time limits were to be relaxed in a particular case, mere fact that a default occurred due to some reason is not enough to

establish the claim of genuine hardship.10. In determining whether genuine hardship is caused to the assessee one has to see whether the delay in filing of return was due to a reasonable cause or not. In this case, delay is attributed ti(sic to) the Auditor. However in such a case on has to see whether the Auditor had a reasonable for cause for delay and whether the assessee pursued the matter due to diligence to get his audit done in time.

We have considered the said findings recorded by the CBDT, which are primarily factual and also lucid and cogent. Statutory time limits fixed have to be adhered to as it ensures timely completion of assessments. Discipline on time limits regarding filing of returns 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.

5.5 The Hon'ble Supreme Court had the occasion to deal with such issue in the case of Ranka & Others vs. Rewa Coalfields Ltd. Wherein the Hon'ble Apex Court has held that "every delay needs to be explained with cogent evidences."

19. The facts fall in a very narrow compass, in as much as, it is a conceded position that the petitioner being a Charitable and Religious Trust is exempted from tax jurisdiction under the provision of Section 11 to Section 13 of the Act. The petitioner had filed the return within time i.e. on 31.10.2018.

20. It is the case of the petitioner that, it had disclosed the details of audit report dated 30.09.2018 in the return. After filing of the return, on 15.11.2018, the petitioner came to know that the annexure in the form of audit report was not uploaded with the return.

21. This resulted in the petitioner filing the audit report under Form-10(b) for the AY 2018-19 with a delay of 16 days (on IT portal) on 16.11.2018. On 23.03.2020, the respondent passed the assessment order under Section 143(1) of the Act without granting the exemption claimed by the petitioner under Section 11 and 12 of the Act. The exemption was disallowed by stating that the return was filed with a delay of 16 days in filing of audit report in the prescribed Form-10(b), the same resulting in a demand of Rs.2,23,53,562/- against the petitioner.

22. On 24.12.2021, the respondent no.2 passed an order issued under Section 154 of the Act for rectifying the intimation order dated 23.03.2020 affirming the rejection of exemption under Section 11 of the Act. Be that as it may, the petitioner filed an application under Section 119(2) seeking condonation of delay in filing Form 10(b). The same was rejected by the respondents.

23. Having noted the facts, we are of the view that the facts clearly enumerate that the return was filed within the time stipulated i.e., on 31.10.2018. It is the case of the petitioner that a reference to the audit report dated 30.09.2018 was made in the ITR and that it was only on 15.11.2018; it came to the knowledge of the petitioner that the audit report has not been uploaded, so in that sense a delay on 16 days had occurred, surely in filing the audit report is a *bonafide* mistake. The averments made in the application are primarily that the audit report could not be uploaded because of the mistake on the part of the Tax Professional/Auditor.

24. The ground for the respondents to reject the application is primarily

relying upon the judgment of the Supreme Court in the case of ***Ranka and Ors. v. Rewa Coalfield Ltd.,*** wherein, the Supreme Court held that every delay needs to be explained with cogent evidences.

25. Mr Abhishek Maratha, learned Senior Standing Counsel for the Revenue, has placed reliance on the judgment of this Court in the case of ***B.U Bhandari Nandgude Patil Associates v. Central Board of Direct Taxes & Ors., W.P.(C) No.6537/2017,*** wherein, this Court has in Paragraph 5.4 held as under:

> *"5.4 Tile issue regarding condonation of delay u/s 119(2)(b) l1as been discussed in detail by the Hon'ble High Court of Delhi in the case of M/s B.U Bhandari Nandgude Patil Associates (Writ Petition Civil No. 6537/2017). The relevant part of the order is as under:-*
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> *"The main issue raised by the assessee in this case is that the delay in audit has led to delay in filing of return which had led to his claim of 8018(10) being disallowed and this had caused genuine hardship to him. It should be noted first that disallowance of any claim will normally lead to hardship. The Legislature has provided time limits for certain obligations under the Act and these time limits have to be observed to be able to claim certain deductions, allowances and avoid interest and penalty. This may be termed a hardship but it is hardship imposed by law in the interest of proper regulation of the Act. If these time limits were to be relaxed in a particular case, mere fact that a default occurred due to some reason is not enough to establish the claim of genuine hardship.10. In determining whether genuine hardship is caused to the assessee one has to see whether the delay in filing of return was due to a reasonable cause or not. In this case, delay is attributed ti(sic to) the Auditor. However in such a case on has to see whether the Auditor had a reasonable for cause for delay and whether the assessee pursued the matter due to diligence to get his audit*

done in time.

We have considered the said findings recorded by the CBDT, which are primarily factual and also lucid and cogent. Statutory time limits fixed have to be adhered to as it ensures timely completion of assessments. Discipline on time limits regarding filing of returns 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."

26. The respondents have also stated that even otherwise the intimation under 143(1) of the Act was passed on 23.03.2020, whereas the appellant/petitioner has filed the application seeking condonation of delay on 02.03.2022, i.e., after two years which again reflects casual approach of the petitioner/assessee.

27. Suffice to state, the law in this regard is well settled, i.e., any mistake on the part of the Auditor should not result in hardship or prejudice to the assessee. The learned counsel for the petitioner is justified in relying upon the judgment of the Gujarat High Court in the case of ***Sarvodaya Charitable Trust v. Income Tax Officer (Exemption), [2021] 125 taxmann.com 75 (Gujarat)*** wherein, the Gujarat High Court in Paragraphs 31 and 33 has held as under:

"31. Having given our due consideration to all the relevant aspects of the matter, we are of the view that the approach in the cases of the present type should be equitious, balancing and judicious. ***Technically, strictly and liberally speaking, the respondent no. 2 might be justified in denying the exemption under section 12 of the Act by rejecting such condonation application, but an assessee, a public charitable trust past 30 years who substantially satisfies the condition for availing***

such exemption, should not be denied the same merely on the bar of limitation especially when the legislature has conferred wide discretionary powers to condone such delay on the authorities concerned.

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33. In view of the above, this writ-application succeeds and is hereby allowed. The impugned order passed by the respondent no. 2 dated 19th August 2019 (Annexure-A to this writ-application) is hereby quashed and set aside. The impugned rectification order at page-13 of the paper-book dated 12th February 2020 is also hereby quashed and set aside. The delay condonation application filed by the writ-applicant before the respondent no. 2 is hereby allowed."

(emphasis supplied)

28. Even this Court in its latest opinion in respect of a delay that occurred on the part of the accountant in ***VRG Electronics Pvt. Ltd. v. Prinicipal Commissioner of Income Tax, W.P.(C) 753/2025;*** Paragraphs 28 and 30 has stated as under:

"28. We find, the respondents have not explained, why the reason given by the petitioner that the accountant had forgot to file the ITR cannot be accepted. In the absence of such a finding, the respondents cannot say that there is no reasonable cause for non-compliance by the assessee. In fact the fault on the part of the accountant surely reflects reasonable cause for non-compliance by the assessee.

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30. We may also refer to the judgment of the Supreme Court in Rafiq and Ors vs. Munshi Lal and Ors, Civil Appeal No. 14105/1981, wherein it was observed as under:

"3 . The disturbing feature of the case is that under our present adversary legal system where the parties generally appear through their advocates, the obligation of the parties is to select his advocate, brief him, pay the fees demanded by him and then trust the

learned advocate to do the rest of the things. The party may be a villager or may belong to a rural area and may have no knowledge of the court's procedure. After engaging a lawyer, the party may remain supremely confident that the lawyer will look after his interest. At the time of the hearing of the appeal, the personal appearance of the party is not only not required but hardly useful. Therefore, the party having done everything in his power to effectively participate in the proceedings can rest assured that he has neither to go to the High Court to inquire as to what is happening in the High Court with regard to his appeal nor is he to act as a watchdog of the advocate that the latter appears in the matter when it is listed. It is no part of his job…

The problem that agitates us is whether it is proper that the party should suffer for the inaction, deliberate omission, or misdemeanour of his agent. The answer obviously is in the negative. Maybe that the learned advocate absented himself deliberately or intentionally. We have no material for ascertaining that aspect of the matter. We say nothing more on that aspect of the matter. However, we cannot be a party to an innocent party suffering injustice merely because his chosen advocate defaulted. Therefore, we allow this appeal, set aside the order of the High Court both dismissing the appeal and refusing to recall that order."

In the above case, the Supreme Court was dealing with an issue where the absence of an Advocate engaged by a party during final arguments lead to the matter being decided against the said party. A parallel can be drawn from the above mentioned judgment that a party should not suffer at the fault of the Charted Accountant in this case*."*

(emphasis supplied)

29. Similarly in ***Al Jamia Mohammediyah Education Society v.***

Commissioner of Income-tax (Exemptions), [2024] 162 taxmann.com 114 (Bombay) the Bombay High Court in Paragraphs 6,7 and 9 has held as under:

> *"6. Admittedly, Petitioner is a charitable trust. Admittedly, Petitioner has been filing its returns and Form 10B for AY 2015-16, for AY 2017-18 to AY 2021-22 within the due dates. On this ground alone, in our view, delay condonation application should have been allowed because the failure to file returns for AY 2016-17 could be only due to human error. Even in the impugned order, there is no allegation of malafide. As held by the Gujarat High Court in Sarvodaya Charitable Trust v. ITO (Exemption) [2021] 125 taxmann.com 75/278 Taxman 148, the approach in the cases of the present type should be equitious, balancing and judicious. Technically, strictly and liberally speaking, Respondent No.1 might be justified in denying the exemption by rejecting such condonation application, but an assessee, a public charitable trust with almost over thirty years, which otherwise satisfies the condition for availing such exemption, should not be denied the same merely on the bar of limitation especially when the legislature has conferred wide discretionary powers to condone such delay on the authorities concerned. Paragraphs 30 and 31 of Sarvodaya Charitable Trust (supra) reads as under:*
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> *"30. We may also refer to and rely upon a decision of the Delhi High Court in the case of G. V Infosutions (P) Ltd. v Dy: CIT[2019] 102 taxmann.com 397/261 Taxman 482. We may quote the relevant observationsthus:*
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> > *"8. The rejection of the petitioner's application under section 119(2)(b) is only on the ground that according to the Chief Commissioner's opinion the plea of omission by the auditor was not substantiated. This court has difficulty to understand what more plea or proof any assessee could have brought on record, to substantiate the inadvertence of its advisor The net result of the impugned order is in effect that the*

petitioner's claim of inadvertent mistake is sought to be characterised as not bona fide. The court is of the opinion that an assessee has to take leave of its senses if it deliberately wishes to forego a substantial amount as the assessee is ascribed to have in the circumstances of this case. "Bona fide" is to be understood in the context of the circumstance of any case. Beyond a plea of the sort the petitioner raises (concededly belatedly), there can not necessarily be independent proof or material to establish that the auditor in fact acted without diligence. The petitioner did not urge any other grounds such as illness of someone etc., which could reasonably have been substantiated by independent material. In the circumstances of the case, the petitioner in our opinion, was able to show bona fide reasons why the refund claim could not be made in time.

9. The statute or period of limitation prescribed in provisions of law meant to attach finality and in that sense are statutes of repose; however, wherever the legislature intends relief against hardship in cases where such statutes lead to hardships, the concerned authorities-including Revenue Authorities have to construe them in a reasonable manner That was the effect and purport of this court's decision in Indglonal Investment & Finance Ltd. (supra). This court is of the opinion that a similar approach is to be adopted in the circumstances of the case."

31. Having given our due consideration to all the relevant aspects of the matter, we are of the view that the approach in the cases of the present type should be equitious, balancing and judicious. Technically strictly and liberally speaking, the respondent no. 2 might be justified in denying the exemption under section 12 of the Act by rejecting such condonation application, but an assessee, a public charitable trust past 30 years who substantially satisfies the condition for availing

such exemption, should not be denied the same merely on the bar of limitation especially when the legislature has conferred wide discretionary powers to condone such delay on the authorities concerned. "

7. Moreover, in our opinion, Petitioner does not appear to have been lethargic or lacking in bonafides in making the claim beyond the period of limitation which should have a relevance to the desirability and expedience for exercising such power. We are conscious that such routine exercise of powers would neither be expedient nor desirable, since the entire machinery of tax calculation, processing of assessment and further recoveries or refunds, would get thrown out of gear, if such powers are routinely exercised without considering its desirability and expedience to do so to avoid genuine hardship.

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9. Having considered the matter in its entirety, we are satisfied that the delay was not intentional or deliberate. Petitioner cannot be prejudiced on account of an ignorance or error committed by professional engaged by Petitioner. In our view, Respondent No.1 ought to have exercised the powers conferred."

30. Even this Court in the case of ***Square Vision India (P.) Ltd. v. Principal Commissioner of Income-tax, [2025] 174 taxmann.com 735 (Delhi)*** in Paragraphs 8,9,11 and 13 has held as under:

"8. Whilst we are inclined to accept the Revenue's contention that there was no technical glitch in its portal during the relevant period, we find it difficult to disregard the petitioner's assertion that it had faced technical difficulties in uploading its ITR. The petitioner has claimed that, after successfully uploading the tax audit report and Form 10CCB, it was unable to upload the ITR form. There may be myriad of technical reasons for the petitioner encountering such a problem, including a technical glitch or human error at its end.

However, we accept that the petitioner did face some hardship in uploading its ITR form. We are persuaded to accept this also for the reason that there is no plausible reason for the petitioner to have refrained from filing its ITR after having commenced the process and uploaded two vital documents that were to be filed along with the ITR. More importantly, the petitioner's income could be ascertained on the basis of these documents.

9. The provisions under Section 119(2)(b) of the Act have been enacted with the primary object of relaxing the conditions where a case of genuine hardship is made out. In the present case, the petitioner's inability to file the return would clearly fall within this category. Thus, the denial of relaxation of a single day in a case where the petitioner had already commenced the process of uploading the documents and its return, in our view, is unsustainable.

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11. The learned PCIT's decision that the petitioner's application could not be entertained as it was filed six years from the end of the assessment year is also patently erroneous. The impugned order records the petitioner's claim that it had filed its application under Section 119(2)(b) of the Act on 22.10.2018; however, since it had not received any response from the learned PCIT, it had sent repeated reminders. The application dated 06.02.2024, which was filed by the petitioner on 12.02.2024, was in the nature of reiterating its request for relaxation under Section 119(2)(b) of the Act, which was initially made on 22.10.2018. The petitioner's application dated 06.02.2024 clearly records as under:

> *"Your kind attention is invited to Petition u/s l19(2)(b) of the IT Act dated 22.10.2018 filed by the assessee with your honor. A fresh petition was sent by e-mail at delhi.pcit8@incometax.gov.in on 16.07.2020. Again, the petition was submitted by email at delhi.cit8@incometax.gov.in on 24.11.2021. Copies of all the petitions are attached for your kind consideration."*

xxxx xxxx xxxx

13. In view of the above, the impugned order is set aside. We direct that the petitioner's application under Section 119(2)(b) be allowed and the delay of one day in filing the ITR for AY 2016-17 be treated as condoned."

31. Similarly, in Gujarat High Court in ***Parul Mahila Pragati Mandal v. Income-tax Officer (Exemption), [2025] 175 taxmann.com 922*** has in Paragraphs 7.1, 7.2 and 8 stated as under:

"7.1 In Association of Indian Panel Board Manufacturers v. Dy.CIT [2023] 157 taxmann.com 550 /482 ITR 54 (Gujarat), this Court has categorically held that filing of Form 10B is only a procedural requirement and the failure to file Form 10B along with the return of income cannot be treated as mandatory requirement for the purpose of claiming exemption under Section 11 and 12 of the Act and even if such Form is filed at a later stage, the Assessee will still be entitled to claim exemption. The aforesaid decision in the case of Association of Indian Panel Board (supra) has been followed by this Court in case of CIT (Exemption) v. Anjana Foundation [2024] 168 taxmann.com 462 (Gujarat). Thus, it will be seen that the Petitioner-Assessee could not be denied the exemption merely because Form 10B was not filed within time. In such circumstances, the denial on the part of the Department to condone the delay in complying with the procedural requirement on the part of the Assessee would result in denial of a substantive right of the Assessee to claim an exemption, which would in turn, result in the Assessee having to pay the demanded amount, thereby unjustly enriching the Department.In such view of the matter in our opinion, the Petitioner would have been caused undue hardship which the Department could have alleviated by allowing the Assessee's application under Section 119(2)(b) of the Act, which is rejected only on the technical grounds.

7.2 This Court in several recent decisions, namely in the case of Royal Led Equipments (P.) Ltd. v. Chief Commissioner of Income-tax [2025] 174 taxmann.com 61 (Gujarat)/Special Civil

Application No. 14786 of 2024 and in the case of Surat Smart City Development Ltd. v. Principal Commissioner of Income-tax [2024] 169 taxmann.com 222 (Gujarat)/Special Civil Application No. 10397 of 2024 has directed the Department to consider the Assessee's applications under Section 119(2)(b) of the Act to ensure that the purpose for which the said provision remains on the statute book is carried out and the said provision is not rendered illusory or becomes a dead letter.

8. In view of the aforesaid discussion, the present Petition succeeds and accordingly allowed. The impugned Orders dated 31.03.2021, 30.4.2021 and the Demand Notice dated 06.05.2021 are hereby quashed and set aside. The Respondent No.1 is directed to pass a fresh order upon the Petitioner's application under Section 119(2)(b) of the Act dated 23.02.2021 within a period of Twelve (12) weeks from the date of receipt of a copy of this judgment and order in light of the findings in Paragraph Nos. 7.1 to 7.2 hereinabove. Rule is made absolute to the aforesaid extent. No order as to costs."

32. In view of the aforesaid discussion, the order dated 14.06.2024 passed by the respondent under Section 119(2)(b) for the AY 2018-19 is set aside. The respondents shall pass a fresh order on the application filed by the petitioner/applicant under Section 119(2)(b) of the Act within a period of eight weeks from the receipt of the copy of the order and thereafter proceed in accordance with law. The present petition is disposed of.

33. Pending application is dismissed as infructuous.

V. KAMESWAR RAO, J

VINOD KUMAR, J

OCTOBER 28, 2025
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