



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 4212/2025

Manav Seva Samiti, Dharamsala Parisar Hospital Road, Chetak
Circle, Udaipur-313001

-----Petitioner

Versus

Principal Chief Commissioner Of Income Tax (Exemptions), New
Delhi, 25Th Floor, E-2 Block, Pratyaksh Kar Bhawan, Civic
Centre, J.I.n. Road, New Delhi-110002

-----Respondent

For Petitioner : Mr. Siddharth Ranka, Adv. through VC
Mr. K.P. Raj Deora, Advocate
For Respondent : Mr. K.K. Bissa

**HON'BLE THE CHIEF JUSTICE MR. K.R. SHRIRAM
HON'BLE MR. JUSTICE SANDEEP TANEJA**

Order

REPORTABLE

14/08/2025

(Per: Chief Justice)

1. Petitioner impugns an order dated 17th August 2023 passed under Section 119(2)(b) of the Income Tax Act, 1961. The matter pertains to Assessment Year 2018-2019.
2. Rule, made returnable forthwith. Shri K.K. Bissa appears for respondent.
3. Petitioner is a public charitable trust registered under Rajasthan Public Charitable Trusts Act, 1959. Petitioner-trust was being maintained by one Anandi Lal Mehta, who was the then President of Trust. The said Anandi Lal Mehta suffered a severe brain stroke and was consequently hospitalized for an extended period of time. Due to his medical condition, accounts of petitioner for Assessment Year 2018-2019 got audited on 23rd February 2019



after a delay of 115 days and the auditor of petitioner uploaded Form 10B on income tax e-portal only on 20th September 2020 with a delay of 700 days after the due date. The said Anandi Lal Mehta unfortunately also died later on 27th November 2022. In his absence, the day to day affairs of petitioner had also come to a grinding halt resulting in inordinate delay. Petitioner, therefore, filed application under Section 119 of the Act, which came to be rejected by impugned order dated 17th August 2023.

4. Counsel for petitioner Shri Siddharth Ranka submitted that petitioner is a *bona fide* charitable trust running charitable activities, distributing food to poor and also free ambulance facilities. He submitted that all these activities are easily verifiable from various income and expenditure accounts of petitioner.

5. It was submitted by Shri Ranka that respondent, in a very casual manner, has rejected application for condonation of delay by stating that, in absence of trust's President, a Vice-President shall be responsible for all duties of President and therefore, the fact that President not being well is a *bona fide* reason for seeking condonation.

6. We agree with Shri Ranka that there is no allegation of lack of *bona fide* in filing Form 10B and uploading the same belatedly. He submitted that, therefore, delay should have been condoned and present petition be allowed.

7. Counsel for respondent Shri K.K. Bissa reiterated what was stated in impugned order.

8. The fact that there was any *mala fide* intention in filing Form 10B belatedly is not alleged in impugned order. The fact that petitioner is a charitable trust is also not denied. Looking at the



charitable activities itself, in our view, delay condonation application should have been allowed. Courts have repeatedly held that such approach in the cases of present type should be equitable, balancing and judicious. Even though technically and strictly and liberally speaking, respondent might be justified in rejecting application but the assessee, a public charitable trust, with so many years of charitable activities, which otherwise satisfies the condition for availing such exemption should not be denied the same merely due on the bar of limitation especially when the legislature has conferred wide discretionary powers to condone such delay on the authorities concerned.

9. We find support for this view of ours in the judgment of Bombay High Court in **Al Jamia Mohammediyah Education Society vs. Commissioner of Income Tax (Exemptions) Mumbai, Union of India**¹ which was authored by one of us (the Chief Justice) where paragraph 6 reads 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. Income Tax Officer (Exemption) MANU/GJ/1687/2020: [2021] 125 taxmann.com 75 (Gujarat), the approach in the cases of the present type should be equitable, 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:

1 2024 (4) TMI 939; [2025] 482 ITR 41 (Bom)



"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 observations thus:

"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 equitable, 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."

10. In our view also, it does not appear that assessee petitioner was lethargic or lacked *bona fide* in making claim beyond the period of limitation. In fact, we do not understand why would any party, who is entitled to claim, would intentionally delay in uploading the required documents.



11. A similar view was taken in **Shree Jain Swetamber Murtipujak Tapagachha Sangh Vs. Commissioner of Income Tax (Exemption) and Anr.**²

12. In our view, therefore, petition has to be allowed. We hereby condone delay. Rule made absolute in terms of prayer Clause (a), which reads as under:

*"(a) Quash and set aside the impugned order dated 17.08.2023 (**Annexure 8**) passed under Section 119(2) (b) of the Act and consequently allow the petitioners application seeking condonation of delay in filing of Form 10B for the assessment year 2018-2019;"*

13. Petition disposed.

(SANDEEP TANEJA),J

(K.R. SHRIRAM),CJ

15-pooja/-