



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION (L) NO. 37554 OF 2025**

Dakuben Saremalji Sancheti (Nadol  
Charitable Trust

.. Petitioner

Versus

Commissioner of Income Tax Exemptions  
Mumbai & Ors.

.. Respondents

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***Mr. Sham V. Walve*** a/w. *Bhavik Chheda i/b Sameer Dalal, Advocates  
for the Petitioner.*

***Mr. Prathamesh P. Bhosle***, *Advocate for the Respondents.*

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**CORAM: B. P. COLABAWALLA &  
AMIT S. JAMSANDEKAR, JJ.  
DATE: December 22, 2025**

**P. C.**

1. Rule. Respondents waive service. With the consent of parties,  
Rule made returnable forthwith and heard finally.

2. The above Writ Petition is filed by the Petitioner Trust  
challenging the Order dated 6<sup>th</sup> March 2025 passed under Section 119(2)(b)  
of the Income Tax Act, 1961 (**for short 'TT Act'**) by the Respondent No. 1. By  
the impugned order, the Petitioner's Application for Condonation of Delay in  
filing Form No. 10 and 10B relating to Assessment Year 2020 – 21 was

rejected by Respondent No. 1 by relying upon Circular No. 16 / 2024 dated 18<sup>th</sup> November 2024. However, the Petitioner had filed a combined Application for Condonation of Delay in filing the Return of Income, Form No. 10, as well as Form No. 10B. Such rejection has resulted in denial of benefit of exemption to the Petitioner Trust.

3. The Respondents have filed their Affidavit-in-Reply dated 28<sup>th</sup> November 2025. When the matter was heard on 1<sup>st</sup> December, 2025, we granted leave to the Petitioner to amend the Writ Petition and bring on record the said Order dated 6<sup>th</sup> March 2025 rejecting Petitioner's Application insofar as Form No. 10B is concerned. The Order dated 6<sup>th</sup> March 2025 rejecting Petitioner's Application for Condonation of Delay in filing Form No. 10B has been brought on record as *Exhibit 'M – 1'* and is also impugned herein.

4. It was pointed out by the learned counsel appearing for the parties that during pendency of this Writ Petition, Respondent No. 1 has now passed a third Order dated 11<sup>th</sup> December 2025 thereby condoning the delay in filing the Return of Income for A.Y. 2020 – 21.

5. Since the Respondent No. 1 has now condoned the delay in filing the Return of Income for A.Y. 2020 – 21, the only issue before us is with respect to rejection of the Petitioner's Application for Condonation of Delay in filing Form No. 10 and Form No. 10B.

6. Brief facts of the case are that the Petitioner is a Charitable Trust engaged in providing medical relief to the poor and to animals. For the relevant A.Y. 2020 – 21, the Petitioner was required to file their Audit Report in Form No. 10B, one month prior to the due date of filing the Return of Income. This was the first year wherein such a condition was introduced. Owing to the COVID – 19 pandemic, the Government extended the due date for filing the Return of Income from time to time and ultimately till 15<sup>th</sup> February 2021.

7. However, the Petitioner claims that it could not file the Form No. 10B, Form No. 10 as also the Return of Income within the stipulated time, as extended by the Government. The Petitioner claims that it filed its Form No. 10B and Form No. 10 electronically on 25<sup>th</sup> March 2021. The Petitioner filed its Return of Income belatedly under Section 139(4) of the Act on 27<sup>th</sup> March 2021 declaring nil income and claiming exemption under the Act. As such, the delay in filing Form No. 10 is around 38 days and Form No. 10B is 69

days. Thereafter, the Centralized Processing Centre issued an Intimation under Section 143(1) of the Act on 30<sup>th</sup> November 2021 raising a demand and reflecting tax payable as Rs. 38,94,640/- and indicating that there were no forms filed by Petitioner.

8. Aggrieved by this, the Petitioner went in appeal before the Ld. Commissioner of Income Tax (Appeals) on 7<sup>th</sup> January 2022 challenging the Intimation under Section 143(1) of the Act. The Petitioner was non – responsive in the appeal proceedings and an order came to be passed observing that power to condone delay has been delegated by the CBDT to the Commissioner of Income Tax Exemptions i.e. the Respondent No. 1 and that the Petitioner was free to approach the Authority for condonation of delay. It was noted that the Ld. Commissioner (Appeals) had no such power and hence the Petitioner’s request could not be acceded to. Against this order, the Petitioner went to the Ld. Income Tax Appellate Tribunal wherein the Ld. Tribunal *vide* its order dated 31<sup>st</sup> May 2023 remanded the matter to the file of Ld. Commissioner (Appeals) directing it to decide the issue afresh after considering Petitioner’s submissions.

9. During the second round of appeal proceedings, the Petitioner largely remained non – responsive except for pointing out the fact that they

were in a process of filing an Application for Condonation of Delay before the Respondent No. 1. Ultimately, the Petitioner filed the Application for Condonation of Delay in filing the Return of Income, Form No. 10B and Form No. 10, before the 1<sup>st</sup> Respondent on 24<sup>th</sup> February 2025 stating that the delay was attributable to the lockdown imposed by the Government in wake of the COVID – 19 pandemic.

10. Thereafter, the Ld. Commissioner Appeals once again dismissed the Petitioner's appeal on the ground of non – prosecution *vide* its order dated 3<sup>rd</sup> March 2025. Immediately thereafter, on 6<sup>th</sup> March 2025, the Impugned Order rejecting Petitioner's Application for Condonation of Delay in filing Form No. 10 came to be passed on the sole ground that the Application itself was not maintainable in view of Circular No. 16 / 2024 dated 18<sup>th</sup> November 2024. It was observed that since the Petitioner had filed the Application beyond a period of three years from the end of the relevant A.Y. 2020 – 21, the Application could not be entertained. It is under such circumstances that the Petitioner is before us challenging the Orders both dated 6<sup>th</sup> March 2025 passed by Respondent No. 1 (*Exhibit 'M' and 'M-1'*) rejecting Petitioner's Application for Condonation of Delay in filing Form No. 10 and Form No. 10B.

11. Mr. Walve at the outset clarified that the validity of Circular No. 16 / 2024 has not been challenged in the present Writ Petition. He also stated that the validity of the Intimation under Section 143(1) is a separate issue which is pending adjudication before the appellate forums. The issue in the present Writ Petition is limited to the Impugned Orders both dated 6<sup>th</sup> March 2025. He pointed out from the Application for Condonation of Delay dated 24<sup>th</sup> February 2025 at *Exhibit – K (Page No. 96)* that it was a combined Application for condoning delay in filing the Return of Income as well as Form No. 10B and Form No. 10. In light of this, the Circular No. 16 / 2024 only deals with and imposes a limitation of three years for entertaining Applications relating to delay in filing Form No. 10B and Form No. 10 but does not deal with or impose any limitation on the field authorities insofar as Application for Condonation of filing the Return of Income is concerned. He submits that Respondent No. 1 *vide* its Order dated 11<sup>th</sup> December 2025 has now accepted Petitioner's reason for the delay in filing the Return of Income. He submits that the reason for the delay in filing Form No. 10 and Form No. 10B is also identical and thus, the delay deserves to be condoned.

12. He submits that the only ground for rejecting Petitioner's Application was that it was filed beyond a period of three years from the end of relevant A.Y. 2020 – 21. There is no finding as regards to whether or not

there was a sufficient cause for the delay in filing Form No. 10B and Form No. 10. Before us, Mr. Walve submitted that the reason for the delay was attributable to the lockdown imposed by the Government and this in itself is a sufficient cause. Even otherwise, the delay in filing the Return of Income has now been condoned. Once this is the position, mere non – filing of Form No. 10B and Form No. 10, which is a procedural proviso, should not take away the benefit of exemption which Petitioner is otherwise entitled to in law.

13. As far as delay in filing the Application itself is concerned, he submitted that the Petitioner Trust was not aware that they had a remedy to approach Respondent No. 1 until the Ld. Commissioner Appeals pointed it out in its order dated 7<sup>th</sup> January 2022. However, since this order was subjected to further challenge before the Ld. Tribunal, at that stage, the Petitioner Trust was advised by their Chartered Accountant to await the outcome in the appeal proceedings before the Ld. Tribunal. Subsequent to the same, upon introduction of the new Circular No. 16 / 2024 dated 18<sup>th</sup> November 2024, the Petitioner Trust preferred to approach the Respondent No. 1. Pursuant to the same, an Application for Condonation of Delay was filed on 24<sup>th</sup> February 2025. Mr. Walve accordingly submitted that the said delay in filing the Application is explainable and reasonable. Thus, the delay in filing the Forms deserves to be condoned.

14. Mr. Walve further submitted that this Court in the case of *Little Flower Education Society vs. Commissioner of Income Tax (Exemptions) Mumbai & Ors. [Writ Petition No. 2057 of 2025]* under similar circumstances and for the same A.Y. 2020 – 21, has condoned the delay of 31 days in filing Form No. 10B wherein the Petitioner had filed the Application beyond a period of three years, which was rejected on ground of limitation. Further, to fortify his submission, he relied on the judgment of this Court in *Sofitel Realty LLP vs. Income-tax Officer (TDS) [2023] 153 taxmann.com 496 (Bombay)* to say that Circulars / Guidelines being subordinate or delegated legislations, cannot impose any restrictions or curtail the express provisions of the Act, where no limitation period is prescribed.

15. On the other hand, Mr. Bhosle, the learned Advocate for the Revenue, strongly opposed the reliefs as prayer for in the Writ Petition. He submitted that no infirmity can be found with Respondent No.1's Orders dated 6<sup>th</sup> March 2025 as the Respondent No. 1 has acted in accordance with the CBDT's Circular No. 16 of 2024. He submitted that the Petitioner cannot claim ignorance of law. He submitted that taking into consideration the difficulties caused due to the Covid-19 pandemic, the due dates for filing Returns and the Tax Audit Report were extended from time to time. He



submitted that the Petitioner has filed an application for condonation of delay in filing Form No. 10 and 10B after a period of 3 years from the end of the relevant Assessment Year. He further submitted that the Petitioner ought to have filed its application within a reasonable time from the date of the filing of Form No. 10 and 10B, especially when the Commissioner of Income Tax (Appeals), in its order dated 22<sup>nd</sup> November 2022, had specifically observed that Respondent No.1 has been delegated the power to condone such delay.

16. Mr. Bhosle sought to distinguish the judgment of this Court in *Little Flower (supra)* on the ground that this Court had granted reliefs in that matter due to the peculiar facts of that case, and, therefore, he submitted that the same ought not to be treated as a precedent, when the CBDT is willing to entertain and hear such applications on merits. He submitted that the restriction contained in Paragraph 3 of the Circular No. 16 / 2024 to entertain any Application would be binding only on the field authorities and the Petitioner was free to approach the CBDT who could have dealt with an Application filed beyond a period of three years. He submitted that the Petitioner is not remediless in that sense. He, accordingly, contended that the Petitioner may be relegated to the CBDT which will hear the Petitioner's application for condonation of delay in filing Form No. 10 and 10B.

17. After hearing the learned counsel appearing for parties and considering the rival submissions, the limited issue that falls for our consideration is whether the delay in filing Form No. 10B and Form No. 10 is condonable or not. We note that there is no challenge to the Circular No. 16 / 2024 and thus, there is no requirement to examine the validity of the Circular No. 16 / 2024. Having said that, we do not deem it appropriate to send the Petitioner to the CBDT. Admittedly, the delay in filing Form No. 10B and Form No. 10 is minor i.e. around 38 and 69 days respectively. We are satisfied with the reason for the said delay. In fact, Respondent No. 1 has already accepted the Petitioner's reason for the delay in filing the Return of Income. In *Little Flower (supra)*, where one of us (B.P. Colabawalla J) was a member, this Court was faced with a similar situation, incidentally for the same A.Y. 2020 – 21. This Court noted as follows:

*“20. Having said that, in the facts of the present case, we do not deem it appropriate to send the Petitioner to the CBDT. This is because we are satisfied that there is a reasonable cause for delay of 31 days in filing of Form No. 10B by the Petitioner. Firstly, the delay is merely of 31 days. Further, we note that AY 2020-21 was the first year when the due date to file the audit report was preponed by one month. Earlier, the time limits to upload audit report in Form 10B coincided with*

*the due date to file the return of income. However, with effect from AY 2020-21, the due date to file the audit report in Form 10B was preponed by one month. In other words, the audit report was required to be filed one month before the due date to file the return of income. The same was inadvertently not noticed by the Petitioner or the Chartered Accountant. There is no reason to disbelieve such an explanation as the audit report in Form No. 10B was admittedly filed along with the return of income. This is coupled with the fact that during such time, there was a lockdown announced by the Government. It should not be forgotten that we are dealing with a period when the COVID 19 pandemic was still prevalent. The school run by the Petitioner was closed during the entire year 2020-21 for students and the school administrative offices were also not working continuously in the year 2020-21 because of the lockdown. It is a known fact that during such time, time limits for various compliances were extended by CBDT from time to time. So much so that even the Hon'ble Supreme Court had suo moto extended the time limits to file appeals/applications under various laws from time to time in Suo Motu Writ Petition (C) No. 3 of 2020. Thus, in the facts of the present case, we are satisfied that the reasons given by the Petitioner for delay in filing of Form No. 10B are bonafide.”*

18. In light of the above position, it can be seen that the Petitioner in their Application for Condonation of Delay has also placed reliance upon the Hon'ble Supreme Court's suo motu cognizance for

extension of limitation. In view of the circumstances prevailing at the relevant point of time, we find no reason to disbelieve the reasons furnished by the Petitioner. As regards delay in filing Application for Condonation of Delay is concerned, after perusing the record of the appellate proceedings annexed to the Writ Petition, there is no doubt that the Petitioner was *bonafidely* pursuing its appellate remedies against the Intimation under Section 143(1) of the Act, and subsequently preferred to file an Application before Respondent No. 1 whilst the appeal proceedings were ongoing. We may also note that the Petitioner has annexed a copy of Affidavit of Mr. Jayant S. Jain, the Trustee of the Petitioner which was submitted before the Ld. Tribunal during appeal proceedings. In this Affidavit, he has explained that due to his old age and health conditions, he was unable to oversee the entire matter in hand and he also undertook to pay an amount of Rs. 10,000/- as costs for remaining non – responsive during the appellate proceedings. Accordingly, we feel that there is no further deliberation required in this regard.

19. In view of the foregoing discussion, we quash and set aside the Impugned Orders dated 6<sup>th</sup> March 2025 passed under Section 119(2) (b) by Respondent No. 1 and condone the delay in filing Form No. 10B as well as Form No. 10.

20. Since the delay has now been condoned, the Respondents, including the CPC, shall give effect to this order and once again process the Petitioner's Return of Income on the basis that Form No. 10B and Form No. 10 have been filed within time. The Respondents are directed to complete this exercise within a period of 12 weeks from the date of this order being uploaded on the High Court Website.

21. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

22. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[ AMIT S. JAMSANDEKAR , J.]

[B. P. COLABAWALLA, J.]