

TRUSHA  
TUSHAR  
MOHITE

Digitally signed  
by TRUSHA  
TUSHAR MOHITE  
Date: 2026.04.07  
14:43:08 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3030 OF 2026

M/s. Srivatsa Encivil Pvt. Ltd. .. Petitioner

**Versus**

Principal Commissioner of Income Tax-3,  
& Anr. .. Respondents

---

**Adv. Sagar Tilak a/w Adv. Preshita Adamane a/w Adv. Saachi Bhiwandkar** for the Petitioner.

**Adv. Vikas Khanchandani** for the Respondents/Revenue.

---

**CORAM: B. P. COLABAWALLA &  
FIRDOSH P. POONIWALLA, JJ.**  
**DATE: APRIL 1, 2026**

**P. C.**

1. This Petition is filed under Article 226 of the Constitution of India whereby the Petitioner challenges the order dated 28<sup>th</sup> January 2026 passed by Respondent No.1 under Section 119(2)(b) of the Income Tax Act, 1961, whereby the Petitioner's application for condonation of delay of 13 days in filing Form 10-IC for Assessment Year 2025-26 has been rejected. Consequentially, the Petitioner has been denied the benefit of the concessional tax regime under Section 115BAA of the Act.

2. The Petitioner is a company engaged in the business of construction and is eligible to opt for the concessional tax regime under Section 115BAA. For A.Y. 2025–26, the due date for filing the return of income and Form 10-IC was 10<sup>th</sup> December 2025.
3. The Petitioner had completed its audit well in time and the benefit under Section 115BAA was already factored into the accounts. However, due to the sudden demise of the Group Founder/Chairman on 25.11.2025, both the return of income and Form 10-IC were filed on 23<sup>rd</sup> December 2025, i.e. with a delay of 13 days. The sudden demise of the Group Founder/Chairman disrupted the functioning of the Company.
4. As there was a delay in filing both the return of income as well as Form 10-IC, the Petitioner filed an application for condonation of delay on 24<sup>th</sup> December 2025 under Section 119(2)(b).
5. By the impugned order dated 28<sup>th</sup> January 2026, Respondent No.1 rejected the application primarily on the ground that filing Form 10-IC within time is mandatory.

6. In this factual backdrop, the learned Counsel for the Petitioner submitted that the delay is merely of 13 days which is minimal and occurred due to a genuine and unavoidable circumstance i.e. the demise of a Group Founder/Chairman, which is duly supported by documentary evidence. It was further submitted that the Petitioner is fully eligible to claim the benefit of Section 119(2)(b) of the Income-Tax Act, 1961 and therefore, the delay deserves to be condoned in exercise of such powers.

7. On the other hand, the learned Counsel for the Respondents supported the impugned order and submitted that compliance with timelines is mandatory.

8. Having heard the learned counsel, we find that in the present case, the delay is only 13 days and is duly explained by undisputed facts, namely the demise of a key family member who was both the promoter and the father of one of the Directors. Therefore, the delay is neither deliberate nor malafide.

9. The benefit under Section 115BAA is a substantive statutory benefit, whereas the filing of Form 10-IC is merely the mode of exercising such option and is thus a procedural requirement. It is well settled that procedural

requirements cannot defeat substantive entitlements, particularly where there is no dispute as to the eligibility of the assessee. The denial of the benefit under Section 115BAA of the Act is going to result in the Tax Liability (including interest thereon) of over Rs. 5,00,00,000/-, which will cause immense hardship to the Petitioner Company.

**10.** The material on record clearly demonstrates that the Petitioner has a consistent track record of timely compliance and that the present instance is the first and only delay from the Petitioner's side. That the return of income and Form 10-IC were filed simultaneously, thereby establishing that the claim was neither an afterthought nor lacking in bona fides.

**11.** In the fact of the present case, we find that Respondent No.1 has adopted an unduly technical and rigid approach by ignoring the short duration of delay, especially due to the exceptional circumstances leading thereto. There is a complete absence of any prejudice to the Revenue and such an approach defeats the very object and purpose of Section 119(2)(b) of the Income Tax Act, 1961. The denial of condonation results in the Petitioner being deprived of the concessional tax regime and consequently saddled with a substantial additional tax liability. For a mere delay of 13 days, such a

consequence, in our view, is unduly harsh, excessive and grossly disproportionate.

**12.** In our considered view, if the relief is not granted under Section 119(2)(b) of the Income Tax Act, 1961, a liability of Rs. 5 crores will be imposed upon the Petitioner causing it grave hardship. The impugned order suffers from non-application of mind and reflects an unduly rigid approach of Respondent No.1. The refusal to condone the delay results in defeating the cause of substantial justice.

**13.** In view of the foregoing discussion, the impugned order dated 28<sup>th</sup> January, 2026, passed by Respondent No.1 under Section 119(2)(b) of the Income Tax Act, 1961, is hereby quashed and set aside and the Petitioner's application for condonation of delay of 13 days in filing Form 10-IC for Assessment Year 2025-26 is hereby condoned.

**14.** Now that the delay has been condoned, the Respondents are directed to process the matter in accordance with law by giving effect to this order on the basis that Form-10 IC has been filed within time.

**15.** 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.

**16.** 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.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]