IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

WRIT PETITION No.18691 of 2026

DATE: 02.07.2026

Between:
M/s. Radiant Digital Solutions Private Limited.

...Petitioner

AND

The Principal Chief Commissioner of Income Tax,
AP and Telangana, Room No. 1031, 10th Floor,
'C' Block, I.T. Tower, AC Guards,
Masab Tank, Hyderabad and 3 Others.

...Respondents

ORDER: *(per Hon'ble Sri Justice P.Sam Koshy)*

Heard Kailash Nath PSS, learned counsel for the petitioner; and Ms. B. Sapna Reddy, learned Senior Standing Counsel for Income Tax Department appearing on behalf of the respondents.

2. The instant Writ Petition under Article 226 of the Constitution of India has been filed by the petitioner challenging the order dated 06.03.2026, issued by respondent No.1, rejecting the petitioner's application for condonation of delay in filing Form 10-IC under Section 119(2)(b) of the Income Tax Act, 1961 (for short the 'Act') for the assessment year 2020-21.

3. *Vide* the impugned order, respondent No.1 denied condonation of delay in filing the Form 10-IC for the assessment year 2020-21 and consequentially denied the benefit under 115BAA of the Act to the petitioner.

4. The brief facts of the case are that the petitioner is a private limited company promoted by non-resident Indians and its administrative affairs, accounts, and tax compliance for the assessment year 2020-21 were handled entirely by its then Finance Manager, who was responsible for all the tax-related filings. That, for assessment year 2020-21, the petitioner filed its Return of Income (ITR-6) on 15.02.2021 within the due date prescribed under Section 139(1) of the Act, declaring total income of Rs.1,37,48,490/-. In the said return, the petitioner availed the benefit of concessional tax rate of 22% under Section 115BAA of the Act. The Tax Auditor also confirmed the same in the Tax Audit Report in Form 3CD. Accordingly, taxes were computed and paid at the concessional rate of 22%, resulting in a refund of Rs.11,53,930/- to the petitioner.

5. That since the assessment year 2020-21 was the first year of introduction of the provision, the petitioner was under a bona fide and honest belief that the declaration of the option under Section 115BAA in the Return of Income and its confirmation in the Tax

Audit Report (Form 3CD) was sufficient compliance with the requirements of the law, and that no separate prescribed form was required to be filed. Accordingly, Form 10-IC, which is the prescribed electronic form for exercise of the option under Section 115BAA under Rule 21AE of the Income Tax Rules, was not filed separately along with the Return of Income. Due to non-filing of Form 10-IC, the Centralized Processing Centre (CPC) processed the petitioner's return under Section 143(1)(a) of the Act and denied the benefit of Section 115BAA and raised a demand of Rs.1,320/- and further denied a refund eligible of Rs.11,53,930/- by its intimation dated 18.12.2021 under Section 143(1) of the Act, computing tax liability of the petitioner at a regular corporate tax rate.

6. Thereafter, upon discovering the aforesaid demand on the Income Tax Portal in late December 2022, the petitioner immediately took steps to rectify the position and attempted to file the Form 10-IC for the relevant assessment year, but failed because the option was disabled on the ITBA Portal. Therefore, on 03.01.2023, the petitioner filed a formal application for condonation of delay under Section 119(2)(b) of the Act before respondent No.3, admitting the inadvertent lapse. The application clearly set out the circumstances of the inadvertent lapse, the bona

fide nature of the omission, and the genuine hardship suffered by the petitioner on account of additional demand Rs.1,320/- by denying refund eligible of Rs.11,53,930/-. On 28.10.2025, the respondent No.3 issued a show-cause letter (DIN: ITBA/COM/F/17/2025-26/1082054249(1)) calling upon the petitioner to demonstrate genuine hardship with supporting documentary evidence, wherein the petitioner respectfully filed a detailed written submissions setting out the facts, the bona fide nature of the lapse, and the genuine hardship caused by the denial of the Section 115BAA benefit and also relied on CBDT Circular No.17/2024, dated 18.11.2024, and CBDT Circular No.19/2023, dated 23.10.2023, to prove that the petitioner satisfied all the substantive conditions for availing the benefit under Section 115BAA. However, the respondent No.1 passed the impugned order of rejecting the condonation of delay and denied the benefit sought for by the petitioner on account that filing of Form 10-IC is a mandatory statutory requirement and a substantive requirement and not a mere procedural formality, and that ignorance of law, procedural oversight, or negligence on the part of a consultant of the petitioner cannot be treated as circumstances beyond the control of the petitioner.

7. It is this rejection of condonation of delay application by respondent No.1 which is under challenge in the instant Writ Petition.

8. Learned counsel of the petitioner submitted that the respondents proceeded on an erroneous footing that filing of Form 10-IC is a mandatory statutory requirement and a substantive requirement and not a mere procedural formality and that the petitioner demonstrated substantial compliance with Section 115BAA as it declared the option for the concessional tax rate of 22% in its Return of Income (ITR-6) and the same was also confirmed by the Tax Auditor of the petitioner in Form 3CD and that the taxes were paid at 22% without claiming any deduction or incentive barred under Section 115BAA.

9. Learned counsel of the petitioner also argued that the petitioner has satisfied all the conditions specified in Sub-Section (2) of Section 115BAA for availing the concessional rate benefit under Section 115BAA of the Act, and as such, mere non-filing of Form 10-IC should not be a ground to deny the petitioner a substantial benefit in law and the respondent No.1 has wrongly and narrowly interpreted the expression “genuine hardship” under Section 119(2)(b).

10. Learned counsel of the petitioner further argued that the impugned order is contrary to the beneficial intent of CBDT Circular No.17/2024, dated 18.11.2024, which was specifically issued to provide relief in Form 10-IC for filing cases for the assessment year 2020-21 where genuine hardship is demonstrated and that the respondent No.1's conclusion that the petitioner's case falls beyond the boundaries of the Circular amounts to reading a beneficial circular restrictively.

11. On the Contrary, the learned Senior Standing Counsel for Income Tax Department solely argued that since the relevant assessment year of the claim of benefit was for the financial year 2019-20, and that the actions of the petitioner were during the assessment year 2020-21, essentially during COVID-19, the petitioner didn't satisfy the requirement of genuine hardship to respondent No.1 and hence, was rightly denied the benefit under section 115BAA. Further, it was argued that merely because the tax auditor / manager of the petitioner failed to exercise caution and due diligence, would not give the petitioner a benefit of genuine hardship and would not satisfy the requirements under Section 119(2)(b) of the Act.

12. Having heard the contentions put forth on either side and on perusal of records, the question of law which arises for

consideration is, whether the petitioner is eligible to claim the benefit under section 115BAA after failing to file the requisite form 10-IC due to hardships caused and whether the case of the petitioner falls squarely within the ambit of section 119(2)(b) of the Act.

13. The petitioner's arguments are two-fold, firstly, he demonstrated the statutory compliance and satisfied all the requirements under Section 115BAA and chose the option of concessional rate of tax of 22% in return of income and the same were duly paid under the aforementioned rate to the Department. Since assessment year 2020-21 was the first year of introduction of the provision of 115BAA, the tax auditor was under a bona fide impression that there was no requirement of filing Form 10-IC which was genuine and inadvertent error of procedural requirement. To support this stance, the learned counsel for the petitioner relied upon the case of **Cell Com Teleservices (P) Ltd. vs. Union of India**[1] wherein the Allahabad High Court had relied upon a judgment of the High Court of Madras in the case of **MRF Ltd. vs. Central Board of Direct Taxes**[2]. For ready reference, paragraph Nos.5 and 8 of the **MRF Ltd.** (supra) for ready reference are reproduced hereunder:

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[1](2026) 487 ITR 47

[2][2025] 172 taxmann.com 776 (Madras)

"5. In this regard. it was submitted by the learned counsel for the petitioner that Section 119(2)(b) has been considered by various High Courts including Hon'ble Supreme Court and it has consistently been held that the discretion under this provision ought to be exercised liberally. It was then submitted by the learned counsel for the petitioner that the belated filing of Form 10-1C in support of the option exercised under Section 115BAA of the Act had been dealt with by this Court in ***Axe Bpo Services (P) Ltd. v. Director*** *[W.P. No. 3425 of 2024, dated 13-11-2024] wherein after referring to various case laws on the scope of the expression "genuine hardship", it was found that there was substantial compliance inasmuch while filing the return it was stated that the petitioner had opted to pay taxes under Section 115BAA of the Act which is the case here as well. In this regard, it may be relevant refer to the following order.*

> *13. The expression "genuine hardship" had come up for consideration on more than one occasion before various Court, including this Court and the Apex Court. It appears that it has been consistently held that the power conferred under Section 119(2)(b) of the Act, ought to be exercised liberally provided circumstances set out therein exist. Here it may be relevant to keep in view the decision of the High Court of Bombay in the case of Pankaj Kailash Agarwal v. CIT, reported (2024) 4641TR 65, wherein it was held that no assessee would stand to benefit by lodging its claim late. More so, where the assessee would get tax advantage/benefit. It was held that the fact that an assessee feels that he would be paying more tax if he does not get the advantage of deduction will certainly constitute "genuine hardship". The phrase "genuine hardship" used in section 119(2)(b) of the Act should be construed liberally. The Legislature has conferred the power to condone the dela, to enable the authorities to do substantial justice to the parties by disposing of the matters on merits."*

8. This Court, after carefully considering the submissions and examining the scope, purport and object of Section 119(2)(6), *finds that identical submissions were made before this Court and the same was rejected in W.P. No. 3425 of 2024, dated 13-11-2024. The relevant portion is extracted here under:*

> *10. Section 119(2)(6) vests power in the Board to admit an application or claim for any exemption, deduction, refund or any other relief under the Act after the period specified under the said Act, for making such application or claim, if it is considered by the Board to be desirable or expedient so to do for avoiding genuine hardship in any case or class ofcases.*
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> *11.If the circumstances set out under Section 119(2)(6) of the Actexists, a duty is caston the Assessing Officer to exercise its power under Section 119(2)(b) of the Act. It is trite law that vesting ofpower in an authority results in imposition of duties on that authority to exercise that power in a manner which would advance the purpose for granting/vesting of such power. In other words, this Court is of the view that the power under Section 119(2)(6) though seemingly an enabling provision, conferring discretionary power, such power is coupled with duty.*
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> *16. I also find that, there has been substantial compliance of the requirement under Section 115BAA of the Act, as evident from the fact that while filing the returns, it was declared/stated by the petitioner that the option to discharge the tax was exercised under Section 115BAA of the Act and taxes were in fact paid@ 22% without claiming deductions as contemplated under Section 115BAA of the Act. In this regard, it may be relevant to refer to the Hon'ble Supreme Court, in the case of Dilip Kumar (2018) 9 SCC, wherein while deciding the Doctrine of Substantial Compliance held as under:*
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> *"33. A fiscal statute generally seeks to preserve the need to comply strictly with regulatory requirements that are*

important, especially when a party seeks the benefits of an exemption clause that are important. Substantial compliance with an enactment is insisted, where mandatory and directory requirements are lumped together, for in such a case, if mandatory requirements are complied with, it will be proper to say that the enactment has been substantially complied with notwithstanding the non-compliance of directory requirements. In cases where substantial compliance has been found, there has been actual compliance with the statute, albeit procedurally faulty. The doctrine of substantial compliance seeks to preserve the need to comply strictly with the conditions or requirements that are important to invoke a tax or duty exemption and to forgive non-compliance for either unimportant and tangential requirements or requirements that are so confusingly or incorrectly written that an earnest effort at compliance should be accepted."

14. In the case of **Cell Com Teleservices (P) Ltd.** (supra) it was emphasized that the clause "genuine hardship" must be purposefully interpreted in the light of legislative intent behind it. For ready reference, paragraph Nos.19 and 20 of the said judgment are reproduced hereunder:

"***19.*** *The arbitrary rejection of the condonation of delay in filing form 10-IC are strongly supported by various judgments that widely interpret "genuine hardship" under section 119(2)(b) of the Act.* ***The hon'ble Supreme Court in B.M. Malani v. CIT [(2008) 306 ITR 196 (SC); (2008) 10 SCC 617; 2008 SCC OnLine SC 1488.] emphasised that "genuine hardship" signifies "genuine difficulty" and requires a purposeful interpretation of the provision, mandating a***

judicious exercise of discretion by statutory authorities.The hon'ble Gujarat High Court in Gujarat Electric Co. Ltd. v. CIT [(2002) 255 ITR 396 (Guj); 2001 SCC OnLine Guj 331.] held <u>that "genuine hardship" must be construed liberally</u>. *The hon'ble Bombay High Court in K.S. Bilawala v. Pr. CIT [(2024) 463 ITR 766 (Bom); 2024 SCC OnLine Bom 1276.] and Sitaldas K. Motwani v. DGIT [(2010) 323 ITR 223 (Bom); 2009 SCC OnLine Bom 2195.] further consolidated this liberal interpretation,* ***<u>asserting that the power to condone delay is for substantial justice and refusing it can defeat the interest of justice.The hon'ble Gujarat High Court in Deepak Pragjibhai Gondaliya v. Pr. CIT [(2026) 486 ITR 458 (Guj).] held that the filing of forms for claiming benefits is procedural and no assessee benefits from late filing.</u>*** *The hon'ble Bombay High Court in Pankaj Kailash Agarwal v. Asst. CIT [(2024) 464 ITR 65 (Bom); 2024 SCC OnLine Bom 1025,] recited by the Madras High Court in MRF Ltd. v. CBDT [(2026) 486 ITR 81 (Mad).], firmly stated that the "an assessee feels that he would be paying more tax if he does not get the advantage of deduction will certainly constitute genuine hardship".*

20. The judgments discussed hereinabove collectively stress that when substantial justice and technical considerations are aligned against each other, preference should be given to the cause of substantial justice and the authorities' approach should be justice-oriented on the merits. <u>The clear and repeated position of law is that even if a procedural delay occurs due to "genuine hardship", it should not prevent an assessee from receiving a rightful tax benefit.</u> *Therefore, in the light of the aforesaid judgments of the hon'ble Supreme Court and the hon'ble High Courts, we are of the view that filing of form 10-IC prior to filing of return is not mandatory and if "genuine hardship" is shown then delay may be condoned and in this respect the provision of law shall be taken as a beneficial piece of legislation."*

15. Secondly, the petitioner has relied upon two Circulars issued by the CBDT, namely, Circular No. F.No.173/32/2022-ITA-1 issued on 23.10.2023, and the subsequent Circular No. F.No.173/32/2022-ITA-1 issued on 18.11.2024, wherein it was categorically held as under:

> ***1.*** *Representations have been received by the CBDT stating that Form No. 10-IC or Form No. 10-ID could not be filed for various assessment years on or before the due date or extended due date, as the case may be. It has been requested that the delay in filing of these Forms for respective assessment years may be condoned.*
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> ***2.*** *With a view to avoid genuine hardship to the assessees in exercising the option, under section 115BAA of the Act read with Rule 21 AE of the Rules or under section 115BAB of the Act read with Rule 21AF of the Rules, the CBDT in exercise of the powers conferred under section 119(2)(b) of the Act, hereby authorizes: -*
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> *a) the Pr. Commissioners of Income Tax ('Pr. CsIT')/ Commissioners of Income Tax ('CsIT") to admit and deal with the applications for condonation of delay in filing of Form No. 10-1C or Form No. 10-ID for Assessment Years 2020-21, 2021-22 and 2022-23 where there is a delay of upto 365 days.*
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> *b) the Pr. Chief Commissioners of Income Tax ('Pr. CCsIT')/ Chief Commissioners of Income Tax ('CCsIT')/ Directors General of Income Tax ('DsGIT") to admit and deal with the applications for condonation of delay in filing of Form No. 10-IC or Form No. 10-ID for Assessment Years 2020-21, 2021-22 and 2022-23 where there is a delay of more than 365 days.*
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> ***3.*** *The Pr. CCSIT/ CCsIT/ DsGIT/ Pr. CsIT/ CSIT while deciding such applications for condonation of delay in furnishing of Form No. 10-IC or Form No. 10-ID to exercise the option, under section 115BAA of the Act read with Rule 21AE of the Rules or under section 115BAB of the Act read with Rule 21 AF of the Rules,*

shall satisfy themselves that the applicant's case is a fit case for condonation under the existing provisions of the Act. The Pr. CCSIT/ CCsIT/DsGIT/ Pr. CsIT/ CsIT shall ensure that the following conditions are satisfied, while deciding such applications:-

a) The return of income for relevant assessment year has been filed on or before the due date specified under section 139(1) of the Act;

b) The assessee has opted for taxation, u/s 115BAA of the Act in case condonation of delay is for Form No. 10-IC and u/s 115BAB of the Act in case condonation of delay is for Form No. 10-ID, in "Filing Status" in "Part A-GEN" of the Form of Return of Income ITR-6; and

c) The assessee was prevented by reasonable cause from filing such Form before the expiry of the time allowed and the case is of genuine hardship on merits."

16. It is an undisputed fact that the filing of Form 10-IC is a mandatory statutory requirement to avail the benefit of concessional tax rate of 22% under section 115BAA which the petitioner failed to submit. This was due to the inadvertent lapse by the petitioner's tax manager / consultant. But, the two Circulars which were issued on 23.10.2023 and 18.11.2024 on record shows that the CBDT witnessed a huge number of representations wherein taxpayers / assessees across the country like the petitioner have failed to fulfil the statutory mandatory requirement of submitting the Form 10-IC for the financial year of 2019-20 and the relevant assessment year of 2020-21, which was a duration of peak COVID-19 and the two Circulars directed the respondents to condone the delay in cases of non-submission of

the Form 10-IC. Admittedly, the petitioner had filed an application for condonation of delay on 03.01.2023 on the grounds of genuine hardships under Section 119(2)(b) which was rejected by the respondent No.1 which is against the legislative intent behind the two Circulars issued by the CBDT. The primary reason the CBDT issued the two Circulars was that during COVID-19, many taxpayers, like the petitioner, across the country faced obstacles and hardships in filing the requisite form 10-IC as the provision of Section 115BAA of the Act was newly introduced immediately before COVID-19. The respondents ought to have allowed the application of condonation of delay in light of 'genuine hardship' caused to the petitioner under Section 119(2)(b) of the Act, especially when the petitioner made attempts to rectify its mistake by making representations immediately after discovering the defect in availing the concessional tax rate under Section 115BAA of the Act.

17. Additionally, the relevant time of the petitioner's assessment year, i.e., 2020-21, was during COVID-19 due to which the petitioner and his consultants' were unable to comply with the statutory compliance and file Form 10-IC along with the return of income in the ITBA portal as the same was shutdown, which although would not strictly fall within genuine hardship, but upon a

conjoint reading of the two Circulars and the judgments relied upon by the petitioner, the petitioner had bona fide intention since the inception of its actions, the benefit under Section 119(2)(b) of the Act must extend to the petitioner as well. Hence the impugned order rejecting the petitioner's application for condonation of delay in filing Form 10-IC passed by respondent No.1, deserves to be and is accordingly, set aside. Accordingly, Writ Petition No.18691 of 2026 stands allowed.

18. As a sequel, miscellaneous petitions pending if any, shall stand closed. However, there shall be no order as to costs.

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P. SAM KOSHY, J

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NARSING RAO NANDIKONDA, J

Date: 02.07.2026
GSD