



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO.9992 of 2024

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE A.S. SUPEHIA sd/-
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI sd/-

Approved for Reporting	Yes	No
	√	

SHRI JAIN DEHRASAR UPASRAYA ANE SADHARAN
 Versus
 COMMISSIONER OF INCOME TAX (EXEMPTION), AHMEDABAD

Appearance:
 MR. HARDIK V VORA(7123) for the Petitioner(s) No. 1
 MR AMAN MIR(10881) for the Respondent(s) No. 1

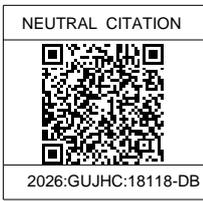
CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 09/03/2026

ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

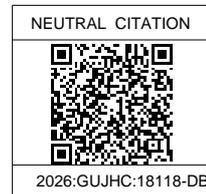
- RULE.** Learned Senior Standing Counsel Mr.Aman Mir waives service of notice of rule on behalf of the respondent.
- Since a short issue is involved, the matter is taken up for final hearing today.
- The present writ petition is filed under Article 226/227 of the Constitution of India for issuance of writ of Certiorari or writ, order or direction in the nature of Certiorari quashing and setting aside the order dated 31.01.2024 passed by the respondent rejecting the application made for condonation of delay under Section 119(2)(b) of the Income Tax Act, 1961 (for short “the Act”) for Assessment Year (for short ‘A.Y’) 2021-22 and a writ of mandamus or writ, order, or direction in the nature of Mandamus directing the respondent to condone the delay in filing



approval of Form 10B of the Act by the petitioner and thereby allowing claim of Rs.7,84,608/- under Section 11 of the Act.

4. The brief facts of the case is that the petitioner is a charitable Trust registered under Gujarat Public Trusts Act, 1950. The petitioner Trust has been actively engaged in running a *Jain derasar* and promoting the philosophy of Jainism for over 45 years. It is registered under the Gujarat Public Trusts Act, 1950 w.e.f 28.03.1973 vide registration No. J-2/74. Further, it is also registered under new provisions of Section 12A of the Act for the A.Y. 2022-23 to A.Y. 2026-27.

4.1 For the A.Y 2021-22, the due date of filing of the audit report in Form 10B was extended upto 15.02.2022 and due date of filing of return of income was extended upto 15.03.2022 as per the Circular No. 01/2022 dated 11.01.2022. Accordingly, the auditor of the petitioner Mr. Viral J Gandhi had filed the audit report on 21.12.2021. Thereafter, return of income was also filed on 28.01.2022 declaring total income to Rs. 1,86,570/- after claiming exemptions under Section 11 of the Act amounting to Rs.7,84,608/-. The audit report uploaded by the tax auditor was accepted/approved by the petitioner trust on 29.03.2022. The return of income was duly processed under Section 143(1) of the Act vide intimation bearing DIN CPC/2122/A7/287648907 dated 10.08.2022 accepting returned income. Thereafter, the Assessing Officer passed suo-moto rectification order under Section 154 of the Act on 07.03.2023 determining total income at Rs. 9,71,176/- after disallowing exemption claimed by the petitioner and raised demand of Rs. 1,35,480/-. The particulars of mistake specified in the order was '*suo-moto for Form 10B & 10BB as date issue*' whereas the detailed reason mentioned for disallowance of claim was that fresh registration was not obtained as per the amended provisions of Section 12AB of the Act. On receipt of the order, the petitioner Trust filed and application for condonation of delay



under Section 119 of the Act on 16.03.2023 by mainly contending that audit report in Form 10B was filed by the CA on 21.12.2021 i.e. before the due date. However, there was only delay of 42 days [15.02.2022 to 29.03.2022] in acceptance of the audit report by the petitioner Trust on e-filing portal and it was verified on 29.03.2022 through Aadhar OTP of the principal contact. Considering that there was no actual delay in filing the audit report but only minor delay in acceptance of audit report, the said delay may be condoned and the petitioner Trust may be allowed to claim the exemptions under Section 11 of the Act. The petitioner Trust also contending that the order under Section 154 of the Act was passed without detailed reasons for disallowance of exemption was different. Thereafter, the notice was issued on 24.11.2023 asking the petitioner Trust to submit the copy of the order of registration under Section 12A of the Act for the A.Y. 2021-22.

5. Learned advocate Mr. Hardik V. Vora appearing for the petitioner has submitted that pursuant to the notice issued on 24.11.2023 asking the petitioner Trust to submit the copy of order of registration, the petitioner has pointed out that the same has been registered under Section 12A of the Act, in fact since 28.03.1973 vide registration no J-2/74. However, the certificate of registration has been lost, and accordingly, the trustees have filed an affidavit. It was also pointed out that in the scrutiny assessment in the year 2011-12 the Assessing Officer has also considered the petitioner Trust as duly registered under Section 12A / 12AA of the Act on the basis of the documents available on record. Accordingly, the order under Section 143(3) of the Act allowing the petitioner Trust as eligible for exemption under Section 11 and 12 of the Act was also passed. It is contended that the petitioner had duly explained the delay in verification of Form 10B however, instead of opining anything on delay, the Commissioner of Income Tax (Exemption) (for short “CIT (exemption)”))



has rejected Form 10 B on the ground that the petitioner Trust has not provided the copy of registration under Section 12 AA of the Act. Thus, it is urged that the impugned order may be quashed and set aside.

6. In response to the aforesaid submission, learned Senior Standing Counsel Mr. Aman Mir, while referring to the provision of Section 12 A of the Act has submitted that the petitioner Trust was required to provide the registration Certificate however, despite issuance of notice, since the certificate was not submitted, the Form 10 B was not accepted and hence the application has been rejected by the order dated 31.01.2024. Thus, it is urged that since it is a mandatory requirement for accepting Form 10B and as the petitioner Trust has not complied with it, the impugned order came to be passed.

7. We have heard the learned advocates appearing for the respective parties at length and perused the documents on record.

8. The facts which are established on record and pleadings are that the petitioner Trust had filed an application seeking condonation of delay under Section 119 of the Act on 16.03.2023 in filing the Form 10B. The detailed reasoning was given by the petitioner Trust which reads thus:-

“For A.Y. 2021-22, the auditor of the Trust had duly uploaded the said Audit Report For 108 alongwith Audited Accounts on 28-01-2022 ie within the due date of 15-02-2022 Subsequently the IT Return of the assessee Trust was also filed on 28-01-2022 i.e. within the due date of 15-03-2022. As per consistent practice, after the said due date of 15-02-2022, the Audit Report along with the IT Return was accepted / approved on 29-03-2022 using the Aadhar OTP of the Principal Contact of the assessee.

The IT Return of the assessee Trust was processed by the CPC u/s 143(1) vide Intimation dated 10-08-2022 duly allowing application of income u/s 11 & 12 of the Act. However later on the CPC, without giving any opportunity to the assessee Trust, suo-moto issued rectification order dated 07.03.2023 under Section 154 of the IT Act.

In the said rectification order, CPC stated the Particulars of mistake as Susmoto for Form 108810BB not filed While disallowing claim of



application of income under Section 11 and 12 of the CPC stated error description as under:-

Incorrect Claim u/s 143(1)(a)(ii)

In Schedule Part A General -"Details of registration or approval under income Tax Act" details of Section 12AB or 10(230) (iv)/10(230) (v) /10(230)(v) /10(23C)(via) is not provided in the column "Section under which the registration is applied". The Act has been amended from 01/06/2020, and all the entities have to get new registration/approval u/s 12AB or 10(230)(iv) 10(230)(v) /10(230) (vi) / 10(23C) (via) to be eligible for exemption. Since in your case, new registration / approval details are not available, exemption claimed in Sl. No. 41 to 4viii in Schedule Part B-TI is not allowable.

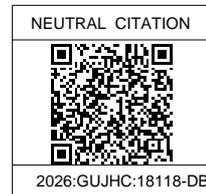
It is worthwhile to note that the reason stated for said suo-moto rectification u/s 154 of the Act and the error description are totally inconsistent with each other, as the time limit for application of registration / approval under the new provisions was extended upto 31-03-2022 vide CBDT Circular No. 16 dtd. 29-08-2021 and hence applicable from A.Y. 2022-23 and not from A.Y. 2021-22.

After introduction of online filing of Audit Report in Form 10B, in all the earlier years. the CPC and the AO has duly accepted the claim of application of income u/s 11 & 12 of the Act in cases when the auditor has timely uploaded within the prescribed due date, even though the said report was approved / accepted after the said due date using Aadhar OTP of the Principal Contact of the assessee Trust.

However for the year under reference, while initiating the suo-moto rectification action, the CPC has disregarded the actual date of uploading of report by auditor, but erroneously considered the date of acceptance / approval of Audit Report as the Date of Filing of Audit Report and disallowed claim of application of income u/s 11 & 12 of the Act.

We would also like to submit that even after timely uploading of Audit Report in Form 10B by the auditor and also approved by the assessee, it would be very unjustified and harsh action on the part of CPC to disallow application of income u/s 11 & 12 of the Act, on the basis of date of acceptance / approval of Audit Report after the due date and considering it as filed after due date.

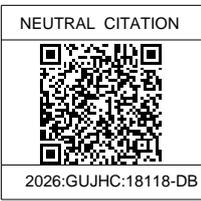
In the past, the Central Board of Direct Taxes have always taken a liberal view for inadvertent mistake on the part of the Charitable Trusts and condoned the delay in furnishing Form 10 B by Charitable Trusts claiming exemption u/s 11 & 12 of the Act. Vide Circular No. 02 2020 dated 03-01-2020 and Circular No. 16-2022 dated 19-07-2022, the CBDT has u/s 119 of the Act empowered your honour to consider the application and condone such a delay in Filing Form 10B upto 365 days.



On the basis of the aforesaid facts and circumstances of our case, it can be observed that there is not a single day of delay in filing the Audit report by the auditor, but only an unintentional technical delay in accepting / verifying the Audit Report by the Principal Contact of the Trust, which was duly submitted by the auditor well within the due date We earnestly request Your Honour to kindly condone the technical delay and grant us the relief.”

9. Along with the aforesaid explanation, the petitioner Trust has also enclosed relevant documents and audit reports. It is also not in dispute that for the scrutiny assessment for the A.Y 2011-12 the CIT(Exemption) had considered the petitioner-Trust as duly registered under Section 12A of the Act on the basis of the documents available on record and passed an order under Section 143 of the Act. Despite the aforesaid submissions, Notice came to be issued to the petitioner Trust on 24.11.2023 asking the petitioner Trust to submit the copy of the order for registration under Section 12A of the Act for A.Y. 2021-22, which ultimately culminated to impugned order dated 31.01.2024, by which, the CIT (Exemption) has rejected the application seeking condonation of delay in filing Form 10B.

10. In our considered opinion the Commissioner of Income Tax (Exemption) has fell in error in traveling beyond the scope of the application filed by the petitioner under Section 119(2) of the Act, seeking condonation of delay in filing the Form 10B. The only course available to the CIT (Exemption) was to either accept or reject the application seeking condonation of delay by considering the explanation tendered therein. The petitioner Trust in its communication dated 19.03.2023 has categorically explained the delay, however, without examining the reasoning tendered by the petitioner in explaining the delay, the CIT has rejected the application on the ground that the petitioner had failed to provide the registration certificate under Section 12AA of the Act for A.Y. 2021-22. In our considered opinion, this was not the stage to examine the issue of registration and the same thing could



have been done at a later stage during the assessment proceedings. The CIT has thus committed an error in rejecting the application seeking condonation of delay on a ground which was not within the scope of the examination of the application seeking condonation of delay. Thus, the impugned order is hereby quashed and set aside. The matter is remanded to the CIT (exemption) to decide the application in accordance with law, by examining the reasons mentioned by the petitioner Trust in the letter dated 09.03.2023 and pass an appropriate order, within a period of six weeks from the date of receipt of the order of this Court. Accordingly, the writ petition stands *allowed*. Rule is made absolute. No order as to costs.

sd/-
(A. S. SUPEHIA, J)

sd/-
(PRANAV TRIVEDI, J)

Radhika/29