



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 8536 OF 2024**

Mahaveer Pratishtan

.. Petitioner

Versus

The Commissioner of Exemption,  
Pune & Anr

.. Respondents

***Mr. Sanket Bora (through VC), with Vidhi Punmiya, Amiya Das  
i/b SPCM Legal, Advocates for the Petitioner.***

***Mr. A. K. Saxena, Advocates for the Respondents.***

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**CORAM: B. P. COLABAWALLA &  
FIRDOSH P. POONIWALLA, JJ.**

**DATE: APRIL 20, 2026**

**P. C.**

1. Mentioned. With the consent of parties, taken out of turn.
2. Rule. Respondents waive service. With the consent of the parties, Rule made returnable forthwith and heard finally.
3. The above Writ Petition is filed seeking to quash and set aside the order dated 18<sup>th</sup> April 2024 passed by Respondent No. 1 rejecting the Petitioner's application for condonation of delay in filing it's Form 10 for the

Assessment Year 2022-23. The other relief sought is a direction to Respondent No. 1 to condone the delay of approximately 11 months in the filing of the said Form 10 for Assessment Year 2022-23.

4. The present matter pertains to Assessment Year 2022-23. The Petitioner filed its Audit Report in Form 10B on 19<sup>th</sup> September 2022; however, it did not file its Return of Income and its Form 10 which is required for claiming exemption under Section 11 of the Income Tax Act, 1961 (for short "***I. T. Act***").

5. It is the case of the Petitioner that upon enquiry with its Chartered Accountant who was entrusted to file the Petitioner Trust's Return of Income and Form 10, it was found that they had missed to file the same. The said Chartered Accountant vide his Affidavit dated 24<sup>th</sup> March 2023 has explained the reason for the non-filing of the Petitioner Trust's Return of Income and Form 10. As per the said Affidavit, the Chartered Accountant had assigned the task of filing the Petitioner Trust's Return of Income, Form 10 and Form 10B to his senior assistant who failed to file the Return of Income and Form 10 because of losing her young son-in-law and it is because of the said tragedy she could not attend to the compliances of the Petitioner Trust. Further, the Affidavit of the Chartered Accountant states that considering the

non-availability of the senior assistant, the task of compliance of the Petitioner Trust was assigned to a new recruit, who due to his lack of experience only uploaded the Form 10B i.e. the Audit Report of the Petitioner Trust.

6. The Petitioner on 27<sup>th</sup> March 2023 filed an application for condonation of delay under Section 119(2)(b) of the I. T. Act towards filing of its Return of Income and Form 10 with Respondent No. 1 alongwith the Affidavit of the Chartered Accountant explaining the reason for the delay of 11 months. The said Application was partly allowed by Respondent No. 1 vide its order 24<sup>th</sup> July 2023 thereby condoning the delay in filing of the Return of Income. However, Respondent No. 1's said order was silent on either allowing or rejecting the condonation of delay towards filing of Form 10.

7. The Petitioner, in pursuance of the Respondent's Order dated 24<sup>th</sup> July 2023, filed its Return of Income and Form 10 for Assessment Year 2022-23 on 9<sup>th</sup> August 2023 and thereafter once again filed an application for condonation of delay under Section 119(2)(b) of the I.T. Act towards filing of its Form 10 with Respondent No. 1 on 10<sup>th</sup> August 2023.

8. Respondent No. 1, by the impugned order dated 18<sup>th</sup> April, 2024, refused to condone the delay on the ground that the Petitioner has filed its return of income on 9<sup>th</sup> August 2023 which was beyond the time limit specified under Section 139(1) of the I. T. Act and hence was in contravention of the condition specified under Section 13(9)(ii) of the I. T. Act.

9. Mr. Bora, the learned Advocate for the Petitioner submitted that Respondent No. 1 had himself condoned the delay in the filing of the Petitioner Trust's Return of Income for Assessment Year 2022-23 vide his Order dated 24<sup>th</sup> July 2023, and hence, the impugned order dated 18<sup>th</sup> April 2024 is perverse since it is passed on the foundation of delay being in the filing of the Petitioner Trust's Return of Income. Further, he submitted that the Petitioner Trust gains no benefit from the said delay and grave hardship would be caused if the delay in the filing of Form 10 is not condoned. He further submitted that the Petitioner Trust has been diligently filing its Return of Income within time, and pointed out the table illustrating the same in the Petition at Para 3.1. For the ease of convenience and reference, the said table is reproduced herein below:

<b>Sr. No.</b>	<b>AY</b>	<b>Due date</b>	<b>Date of Filing of Return</b>	<b>Acknowledgment No.</b>
1	2012-13	30.09.2012	30.09.2012	184300912054131
2	2013-14	31.10.2013	12.09.2013	184120913047591
3	2014-15	30.09.2014	16.09.2014	184160914042315
4	2015-16	31.10.2015	28.08.2015	726720441280815
5	2016-17	17.10.2016	07.09.2016	438393201070916
6	2017-18	07.11.2017	27.07.2017	945247721270717
7	2018-19	31.10.2018	15.07.2018	781876060150718
8	2019-20	31.10.2019	24.09.2019	172351221240919
9	2020-21	15.02.2021	20.11.2020	733074261201120
10	2021-22	15.03.2022	18.01.2022	942954220180122

10. On the other hand, Mr. Saxena, the learned Advocate for the Revenue, submitted that the Petitioner had filed the Return of Income and Form 10 belatedly and they should have been diligent in the filing of the same to avail the benefits under Section 11 of the I.T. Act. Accordingly, the impugned order is rightly passed keeping in mind the provisions of Section

13(9)(ii) of the I. T. Act, was the submission. Consequently, he submitted that the Petition be dismissed.

11. Having carefully perused the records of the proceedings, we are of the view that the Petitioner Trust would suffer grave hardship if the delay is not condoned since the Petitioner Firm would be saddled with a huge tax liability for merely not filing Form 10 within time. The Petitioner-Trust, ought not to be foisted with such hardship because of the failure of the Petitioner's Chartered Accountant to fulfill the Petitioner Trust's compliance owing to reasons explained in the Chartered Accountant's Affidavit dated 24<sup>th</sup> March 2023. The Petitioner does not seem to gain any benefit from such a delay in filing its Form 10. This is more so in the facts of the present case when one considers that the very same officer has already condoned the delay in filing the Return of Income. In other words, the officer, whilst condoning the delay in filing the Return of Income, was satisfied with the explanation given by the Petitioner.

12. Considering these facts and circumstances, we are of the view that the delay ought to be condoned. We accordingly quash and set aside the

impugned order dated 18<sup>th</sup> April 2024 passed by Respondent No. 1 under Section 119(2)(b) of the I. T. Act.

13. Now that the impugned order is quashed, we also hereby condone the delay on the part of the Petitioner Trust in filing of its Form 10 for Assessment Year 2022-23. Since the delay is condoned, the Respondents shall once again process the Petitioner's returns in accordance with law by giving effect to this order on the basis that Form 10 has been filed within time.

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

15. 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.]**