APHC010065812025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3543]

TUESDAY, THE 28th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 3499/2025

Between:

M/s.sri Vani Educational Society, **...PETITIONER**

AND

The Assistant Commissioner and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. RAMINENI SUDHEER

Counsel for the Respondent(S):

1. T NIRANJAN Deputy Solicitor General of India
2. Y N VIVEKANANDA

WRIT PETITION NO: 17909/2025

Between:

Sri Vani Educational Society **...PETITIONER**

AND

The Assistant Commissioner and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. RAMINENI SUDHEER

Counsel for the Respondent(S):

1. T NIRANJAN Deputy Solicitor General of India
2. Y N VIVEKANANDA

The Court made the following common order:
(Per Hon'ble Sri Justice T.C.D. Sekhar)

As the issue involved in these writ petitions is similar, they are being disposed of by way this common order.

2. Writ petition No.3499 of 2025 is filed questioning orders dated 07.01.2025, in relation to the assessment years 2019-20, 2020-21 and 2021-22, issued by the 4th respondent, whereunder the application filed by the petitioner under Section 119 (2)(v) of the Income Tax Act, 1961. Writ petition No.17909 of 2025 is filed questioning the demand notice dated 16.06.2025, issued by the 1st respondent, pursuant to the assessment orders passed against the petitioner.

3. The petitioner is a registered educational society having registered under Section 12AA of the Income Tax Act, by virtue of proceedings dated 03.11.2009, issued by the Commissioner of Income Tax, Vijayawada. As per the trust deed/memorandum or articles of association dated 03.11.2008, the petitioner has filed an application in Form-10A for registration under Section 12A(a) of the Income Tax Act on 10.08.2009. In furtherance thereto, the registration of the petitioner was done from the assessment year 2010-11.

4. Be that as it may, for the assessment year 2019-20, the petitioner filed its return on 13.11.2019, claiming exemption on Rs.3,53,27,987/- under Sections 11 & 12 of the Income Tax Act, as the petitioner being a charitable institution and shown the gross income as Rs.0. Similarly, it had claimed exemption for the assessment years 2020-21 and 2021-22. While so, the 2nd respondent issued notice of intimation dated 09.06.2020, under Section 143 (1) of the Act, rejecting the claim of the petitioner for exemption on the ground that the details of registration under Section 12AA or approval under Section 10(23C)(iv) had not been furnished by the petitioner and filing of Form-10B is mandatory. Subsequently, assessment order came to be passed on 26.12.2003, in relation to the above periods raising a total demand of Rs.4,79,92,300/-. Thereafter, the petitioner said to have approached the 1st respondent and informed that the petitioner society is exempt from payment of tax as the petitioner was registered under Section 12AA of the Income Tax Act, 1961. The 1st respondent in turn informed the petitioner that, as Form-10B was not filed, the assessment order came to be passed and directed the petitioner to approach the 4th respondent. Accordingly, the petitioner filed three applications under Section 119(2)(b) of the

Act to condone the delay in filing Form-10B for the assessment years 2019-20, 2020-21 and 2021-22. The applications filed by the petitioner came to be rejected by separate orders dated 07.01.2025, which are being impugned in WP No.3499 of 2025. In the process of recovery, the 1st respondent issued notice dated 16.06.2025, the same is being impugned in WP No.17909 of 2025.

5. The counsel for petitioner would submit that the last date for filing Form-10B was 31.10.2019, whereas the petitioner filed the same on 13.11.2019, with a delay of 13 days. Similarly, the petitioner filed Form-10B on 14.02.2021 and 08.02.2021 for the periods 2020-21 and 2021-22 respectively i.e., within the extended date of filing. The applications for the petitioner came to be rejected by impugned orders dated 07.01.2025, on the ground that the same were not filed within the due date and the petitioner has not shown any cause in preventing it from filing Form-10B. It is the specific case of the petitioner that, in relation to period 2019-20, the charted accountant of the petitioner Sri G.R.Sathyanarayana, suffered with heart ailment and took treatment in Care Hospital, Musheerabad, Hyderabad, during the month of October, 2019. On account of the same, there was a delay of 13 days in filing the return for the year 2019-20. He would further submit that, insofar

as assessment years 2020-21 and 2021-22, he could not file return in time in view of the Covid pandemic prevailing during the said period. He would further submit that, without properly considering the case of the petitioner, the delay applications came to be dismissed by the 4th respondent.

6. For proper appreciation of the case of the petitioner Section 119(2)(b) of the Income Tax Act, 1961, is reproduced hereunder:

> *"Section 119(2)(b): The Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any income-tax authority, to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law".*

7. A reading of the above provision would clearly indicate that the intention of the legislature was to take a liberal approach, whenever an application is filed under the above provision of law. Further, under Section 119(2)(b) of the Act, the power is conferred on the 4th respondent to condone the delay in furnishing the returns of an appropriate application within a reasonable period of time. A further perusal of the above provision would make it clear that, there is no specific time prescribed for condonation of delay, meaning thereby discretion is given to the 4th respondent to

exercise the same in proper prospective, especially taking into account the difficulties faced by the assesses.

8. Further, the reasoning given by the 4th respondent, while rejecting the applications of the petitioner do not stand for legal scrutiny inasmuch as the circulars issued by Central Board of Direct Taxes would be binding on the authorities, however the same is not binding on this Court, especially while exercising jurisdiction under Article 226 of the Constitution of India. Apart from the same, fixing the time limit under the circular aforementioned is not tenable, as the same would run contrary to Section 119(2)(b) of the Act.

9. In nutshell, the 4th respondent is conferred with the power under Section 119(2)(b) of the Act, to condone the delay on the part of assesses in filing the returns or appropriate applications. In such circumstances, rejecting the applications filed by the petitioner on the ground that the same is beyond the time prescribed is not sustainable. Further, our view is also fortified by the decision rendered by coordinate bench of this Court in W.P.No.29398 of 2024, dated 20.01.2026 and judgment of the Hon'ble High Court of Telangana in W.P.No.31360 of 2023, dated 24.11.2023.

10. Accordingly, the impugned order dated 07.01.2025 is set aside, and the applications filed by the petitioner under Section 119(2)(b) of the Income Tax Act, 1961, in relation to the period in dispute are allowed. Further, respondents are directed to allow the petitioner to file Form-10B, along with returns and process the same in accordance with law. Consequently, the demand notice dated 06.06.2025, issued by the 1st respondent is also set aside.

11. In the result, the writ petitions are allowed. There shall be no order as to costs.

As a sequel, pending applications, if any shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D. SEKHAR

28.07.2026
DSB

183

HON'BLE SRI JUSTICE NINALA JAYASURYA
AND

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

WP No.3499 & 17909 of 2025
Date 28.07.2026

U
DSB