IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 24472 OF 2026

Vallabh Welfare Foundation **… Petitioner**

V/s.

Commissioner of Income Tax (Exemptions), Mumbai & Ors. **… Respondents**

Mr. Devendra H. Jain a/w. Shashank Ajay Mehta a/w. Saukhya Lakade for the Petitioner

Mr. Prathamesh P. Bhosle for the Respondents

CORAM : B.P. COLABAWALLA AND
FARHAN P. DUBASH, JJ.

DATE : 21st SEPTEMBER 2026

P.C. :

1. Rule. Respondents waive service. With the consent of the parties, Rule is made returnable forthwith and heard finally.

2. The above Writ Petition has been filed challenging the legality and propriety of the order dated 18th February 2025 passed under Section 119(2)(b) of the Income Tax Act, 1961 (**"the I.T. Act"**) for Assessment Year 2020-21. By the impugned order, the Commissioner of Income Tax (Exemptions), Mumbai

(Respondent No. 1) rejected the application filed by the Petitioner seeking condonation of delay of 30 days in filing Form No. 10B by relying upon a Circular issued by the CBDT, being Circular No. 16/2024 dated 18th November 2024. This Circular stipulates that no application for delay in filing of Form No. 9A/10/10B/10BB shall be entertained beyond the period of three years from the end of the Assessment Year for which such application is made. The Circular also makes it clear that this time limit would apply for any applications that are filed on or after the date of the Circular, namely, 18th November 2024. Respondent No. 1 dismissed the application filed by the Petitioner under Section 119(2)(b) relying upon this Circular because admittedly, the application seeking condonation of delay was filed on 4th February 2025 and was beyond the period of three years from the end of the Assessment Year in question.

3. The Petitioner is a charitable institution registered under Section 12AA of the I.T. Act and also a company incorporated under Section 8 of the Companies Act, 2013 on 11th April 2018 and has been constituted with the objective of promoting education, healthcare, social welfare, and community development. The Petitioner undertakes activities for the benefit of the economically weaker and vulnerable sections of society, including children,

women, senior citizens, Scheduled Castes, Scheduled Tribes, backward classes, minorities, and physically challenged persons, through various welfare, skill development, and rehabilitation initiatives. The Petitioner was granted registration under Section 12AA of the I.T. Act vide certificate dated 10th December 2018.

4. The year under consideration is A.Y. 2020-21. The Petitioner filed its Return of Income on 9th February 2021 under Section 139(1) of the I.T. Act claiming exemption under Section 11 of the Act amounting to Rs. 70,00,000/-. For claiming the exemption, the Petitioner has to get its books of account audited and submit an Audit Report under Section 12A(1)(b) of the I.T. Act in Form No. 10B. By virtue of the amendment to Section 12A(1)(b) introduced by the Finance Act, 2020, the requirement of furnishing the Audit Report in Form No. 10B was changed from filing the same along with the Return of Income to filing it one month prior to the due date for filing the Return of Income. Consequently, for A.Y. 2020-21, the due date for filing Form No. 10B stood extended up to 15th January 2021, whereas the due date for filing the Return of Income stood extended up to 15th February 2021.

5. The Petitioner is a comparatively new trust and A.Y. 2020-21 was only its second year of operations. The Petitioner filed its Return of Income for the

relevant Assessment Year on 9th February 2021 under Section 139(1) of the I.T. Act. In view of the newly introduced amendment during the COVID-19 period, the Petitioner and its Auditor under bona fide belief, proceeded on the understanding that the amended requirement would apply from A.Y. 2021-22 and that Form No. 10B was required to be furnished along with the Return of Income as per the old provision. Accordingly, the Audit Report in Form No. 10B for the relevant Assessment Year came to be filed on 14th February 2021, i.e., prior to the extended due date for filing the Return of Income. According to the Petitioner the delay was neither deliberate nor mala fide, but arose solely on account of a bona fide misunderstanding regarding the amended compliance requirement. Though the Petitioner and its auditor believed the delay to be only 5 days, however, under the amended provisions the effective delay in filing Form No. 10B is 30 days.

6. The Petitioner was issued an intimation under Section 143(1)(a) of the I.T. Act dated 30th November 2021 by the Centralized Processing Centre, denying the exemption which was claimed by the Petitioner and raising a demand of Rs. 27,35,970/-. Further, the said intimation records that "No forms filed". Thus, the intimation proceeded on the basis that Form No. 10B had not been filed at all. There was, undisputedly, no reference in the said

intimation of delay in filing of the Audit Report in Form No. 10B.

7. The Petitioner claims that it was not aware of the issuance of the intimation under Section 143(1) of the I.T. Act. The Petitioner first became aware of the same upon receipt of a recovery communication dated 1st October 2024 issued by Respondent No. 3, stating that demand for A.Y. 2020-21 was outstanding and calling upon the Petitioner to either pay the demand or furnish details of rectification, appeal effect, or stay application, if any. Upon verification of the records and after obtaining professional advice, the Petitioner came to understand that Form No. 10B had not been considered while processing the Return of Income under Section 143(1) of the I.T. Act, resulting in denial of exemption claimed under Section 11 of the Act.

8. It is in these circumstances that on 4th February 2025, the Petitioner filed an Application before Respondent No. 1 under Section 119(2)(b) of the I.T. Act, seeking condonation of delay in filing of Form No. 10B for the relevant Assessment Year, which came to be rejected by the impugned order dated 18th February 2025. Thereafter, the Petitioner also preferred an Application for condonation of delay under Section 119(2)(b) of the I.T. Act before the CBDT, which is presently pending adjudication and has not yet been

disposed of by the CBDT. Hence, the present Writ Petition.

9. The Respondents have raised a preliminary objection regarding the maintainability of the present Writ Petition. It is the contention of the Respondents, as set out in the Affidavit-in-Reply dated 4th August 2026 filed by Respondent No. 1, that the Petitioner has already availed of the alternate remedy available under law by filing an Application for condonation of delay under Section 119(2)(b) of the I.T. Act before the CBDT on 24th June 2025, and therefore, the present Writ Petition ought to be dismissed on the ground of maintainability as the Petitioner has already approached the CBDT. The Respondents further contend that the Application for condonation of delay was filed beyond three years from the end of the relevant Assessment Year and as per CBDT Circular No. 16/2024 dated 18th November 2024, the said Application was not admissible before the CIT (Exemptions) and was therefore rightly rejected.

10. We have heard Mr. Jain, the learned Counsel appearing on behalf of the Petitioner, as well as Mr. Bhosle, the learned Counsel appearing on behalf of the Respondents and have perused the material on record. We find that the Respondents, in their Affidavit-in-Reply dated 4th August 2026, have

themselves clarified that an Application for condonation of delay in filing of Form 9A/10/10B/10BB beyond three years from the end of the relevant Assessment Year can be made before the CBDT. We further note from the record that the Petitioner, being conscious of the aforesaid legal position, has already filed an Application for condonation of delay under Section 119(2)(b) of the Act before the CBDT on 24th June 2025, which is stated to be pending consideration.

11. Though we are mindful of the fact that the Petitioner has already filed an Application before the CBDT seeking a condonation of delay, in the peculiar facts and circumstances of the present case, we do not deem it necessary to relegate the Petitioner to prosecute its pending Application before the CBDT. This is because we are satisfied that there is a reasonable cause for the delay of 30 days in filing of Form No. 10B by the Petitioner. Firstly, the delay is merely of 30 days. Further, we note that A.Y. 2020-21 was the first year when the due date to file Audit Report was preponed by one month. Earlier, the time limits to upload the Audit Report in Form 10B coincided with the due date to file the Return of Income. However, with effect from A.Y. 2020-21, the due date to file the Audit Report in Form 10B was preponed by one month. In other words, the Audit Report was required to be filed one month

before the due date to file the Return of Income. This apart, during this time, there was a lockdown announced by the Government. It should not be forgotten that we are dealing with a period when the COVID-19 pandemic was still prevalent. It is a known fact that during such time, time limits for various compliances were extended by the CBDT from time to time. So much so that even the Hon'ble Supreme Court had suo moto extended the time limits to file Appeals/Applications under various laws from time to time in Suo Moto Writ Petition (C) No. 3 of 2020. Thus, in the facts of the present case, we are satisfied that the reasons given by the Petitioner for the delay in filing of Form No. 10B are bona fide.

12. This apart, not condoning such delay would cause a genuine hardship to the Petitioner inasmuch as the Petitioner had been denied exemption under Section 11 of the I.T. Act and a demand of Rs. 27,35,970/- has been raised for belated filing of the Audit Report in Form No. 10B. One of the relevant considerations for condoning delay under Section 119(2)(b) of the I.T. Act is to consider the genuine hardships which an Assessee will face if the delay is not condoned. We derive support from the decision of this Court in the case of ***Sitaldas K. Motwani v. DIT (International Taxation) [2010] 187 Taxman 44,*** the relevant portion of which is reproduced hereunder:

> *"15. The phrase "genuine hardship" used in Section 119(2)(b) should have been construed liberally even when the petitioner has complied with all the conditions mentioned in Circular dated 12th October,1993.The Legislature has conferred the power to condone delay to enable the authorities to do substantive justice to the parties by disposing of the matters on merit.*
>
> *The expression "genuine" has received a liberal meaning in view of the law laid down by the Apex Court referred to hereinabove and while considering this aspect, the authorities are expected to bare in mind that ordinarily the applicant, applying for condonation of delay does not stand to benefit by lodging its claim late. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non deliberate delay. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk. The approach of the authorities should be justice-oriented so as to advance cause of justice. If refund is legitimately due to the applicant, mere delay should not defeat the claim for refund."*

13. A similar issue was considered by this Court in the case of ***Mirae Asset Foundation v. Pr. CIT [2025] 176 taxmann.com 345***. Paragraph 5 of the said order is reproduced hereunder:

> *"5. As far as the condonation of delay is concerned, we find that admittedly there was only 24 days delayin filing Form 10B. It is true that the application seeking condonation of delay was filed after about 9 months. However, we find that this delay is not such that should deny the Petitioner from filing Form10B with a*

> *delay of 24 days. We find that if this delay is not condoned, there will be genuine hardship to the Petitioner, inasmuch as, the Petitioner would be denied the exemption otherwise claimed under the provisions of Section 11 of the IT Act and which is a substantial amount."*

14. Incidentally, for the same A.Y. 2020-21, this Court in :

    (i) ***Shree Chandraprabha Medical Trust v. Commissioner of Income-tax (Exemptions) [Writ Petition (L) No. 14286 of 2025, dated 4-3-2026],***

    (ii) ***Little Flower Education Society v. CIT (Exemptions) [Writ Petition No. 2057 of 2025, dated 25-8-2025],***

    (iii) ***Dinesh Surendra Kotecha v. UOI [Writ Petition No. 2657 of 2025 dated 13-10-2025]*** and

    (iv) ***Dakuben Saremalji Sancheti (Nadol Charitable Trust) v. CIT, Exemptions [Writ Petition (L) No. 37554 of 2025 dated 22-12-2025]***,

    condoned the delay in filing the concerned Forms, instead of relegating the Petitioners therein to approach the CBDT.

15. In view of the aforesaid discussion and the reasons stated above, we quash and set aside the impugned order passed under Section 119(2)(b) of the I.T. Act dated 18th February 2025 and condone the delay of 30 days in filing of Form No.10B for A.Y. 2020-21. Consequently, we also set aside the intimation dated 30th November 2021 issued under Section 143(1) of the I.T. Act.

16. Since the delay has been condoned, the Respondents shall once again process the Petitioner's Return of Income in accordance with law by giving effect to this order on the basis that Form 10B has been filed within time.

17. In the light of this order, Mr. Jain undertakes to communicate the present order to Respondent No.2 – CBDT and also to withdraw the Application under Section 119(2)(b) of the Act filed before Respondent No.2 – CBDT within a period of one week from the date of uploading of this order. The said undertaking is accepted.

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

19. 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.

(FARHAN P. DUBASH, J.) **(B. P. COLABAWALLA, J.)**

Jyoti Pawar