



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

WRIT PETITION NO. 3976 OF 2026

Cine Artist Welfare Trust .. Petitioner
V/s.
Commissioner of Income Tax (Exemptions) & Anr. .. Respondents

Mr. Dharan V. Gandhi for Petitioner.
Mr. Prithish Chatterjee for Respondents

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

DATE : 19th OCTOBER 2026

P.C.:

1. Rule. Rule made returnable forthwith. With the consent of the parties, heard finally at the stage of admission.
2. The Petitioner challenges the order dated 18th March 2025 passed by Respondent No. 1 under Section 119(2)(b) of the Income-tax Act, 1961 (“the Act”), rejecting its application for condonation of delay in furnishing Form No. 10 for Assessment Year 2019-20. The Petitioner also challenges the consequential denial of accumulation under Section 11(2) of the Act in the intimation dated 12th December 2020 issued under Section 143(1) of the Act.

3. The Petitioner is a charitable trust registered under the Bombay Public Trust Act, 1950. It was granted registration under Section 12A of the Act on 21st November 1991. Its objects include providing grants and other assistance to film artists and their dependents, providing scholarships, and establishing or supporting medical and educational institutions for their benefit.
4. For Assessment Year 2019-20, the Petitioner filed its original Return of Income on 5th October 2019, within the extended due date of 31st October 2019. In that Return, the Petitioner claimed accumulation of Rs. 70,00,000/- under Section 11(2) of the Act. According to the Petitioner, the accumulation was also disclosed in the audit report in Form No. 10B dated 3rd October 2019. The Petitioner inadvertently did not file Form No. 10.
5. The Petitioner filed a revised Return on 31st October 2019. In the revised Return filed on that date, the accumulation was also erroneously reflected at Rs. 41,24,768/-. However, instead of furnishing the prescribed statement in Form No. 10, the Petitioner inadvertently furnished Form No. 9A on 31st October 2019 for Rs. 41,24,768/-.
6. The Petitioner states that the omission was discovered when it received a

defect notice under Section 139(9) of the Act. As a result, in response to such notice, the Petitioner filed a Return curing the defects on 16th July 2020, restoring the claim of accumulation to Rs. 70,00,000/-. The requisite Form No. 10 was also uploaded on 18th July 2020. An acknowledgement to this effect is at page 187 of the paperbook.

7. An intimation dated 12th December 2020 was issued under Section 143(1) of the Act, by which the accumulation was denied for failure to furnish Form No. 10 within the prescribed time. The Petitioner thereafter filed a rectification request on 2nd March 2021 which was rejected *vide* order dated 30th September 2021.
8. The Petitioner also filed an application dated 4th March 2021 for condonation of delay on 8th March 2021. The said application for condonation of delay was rejected by the impugned order dated 18th March 2025. Hence, the present Writ Petition.
9. The learned Counsel for the Petitioner submits that the Original Return and the Audit Report disclosed the claim of accumulation and that the filing of Form No. 9A, instead of Form No. 10, was an inadvertent procedural error. The erroneous figure in the revised Return was subsequently corrected. He

submits that these circumstances demonstrate an intention to claim accumulation from the outset, rather than an attempt to introduce a claim after processing of the Return. The omission was corrected during the COVID-19 pandemic. There was no deliberate delay or benefit derived from it, and denial of consideration of the claim has resulted in substantial hardship to a charitable trust.

10. The Revenue opposes the Writ Petition on the basis of the Affidavit-in-Reply filed by Respondent No. 1. It is submitted that the successive Returns contained inconsistent figures, that the Petitioner was required to exercise due diligence, and that a bare assertion of inadvertence does not establish reasonable cause. The Revenue also relies on the entries in the audit report to submit that the amount accumulated does not appear to have been invested or deposited in the modes prescribed under Section 11(5) of the Act. Reliance is placed on the decisions in *Commissioner of Customs v. Dilip Kumar & Co. [(2018) 9 SCC 1]* and *PCIT v. Wipro Ltd. [(2022) 140 taxmann.com 223 (SC)]* to emphasize strict compliance with conditions governing exemption.
11. We have considered the rival submissions. From the facts on record, we find that the Petitioner had duly claimed accumulation of income under Section

11(2) of the Act in the original Return filed on 5th October 2019 to the tune of Rs. 70,00,000/-. The same was also duly reflected in Form No. 10B i.e., the audit report. Form No. 10 is to be filed before the due date of filing of Return of Income for supporting the claim of accumulation of income in terms of Section 11(2) of the Act. It is the Petitioner's case, that due to sheer inadvertence and oversight, the requisite Form No. 10 was not filed within the due date specified. Such claim, as noticed earlier, was duly made in the original Return and therefore, is not an afterthought. These are the most crucial facts in the present case. Respondent No. 1 in the impugned order states that such a reason is a mere bald assertion and without any basis or evidence. Such a finding cannot be accepted, inasmuch as the contemporaneous record shows that the said claim was duly made in the original Return. Thus, there is no material on record to disbelieve the explanation offered by the Petitioner.

12. In *Shree Jain Swetamber Murtipujak Tapagachha Sangh v. Commissioner of Income Tax (Exemptions) and Anr.*, [Writ Petition (L) No.1321 of 2024, decided on 27th March 2024], this Court considered a delay in furnishing Form No. 10 where accumulation had been reported in Form No. 10B. The Auditor explained that he had overlooked the requirement of furnishing a separate statement in Form No. 10. This Court accepted the explanation,

held that the delay was not intentional or deliberate, and observed that the trust could not be prejudiced on account of the ignorance of the rules admitted by the professional engaged by it. This Court accordingly, condoned the delay in filing of Form No. 10. The said judgment squarely applies to the facts of the present case.

13. As regards investment in the prescribed modes, the impugned order does not reject the application on a finding that the accumulated amount was not invested or deposited in accordance with Section 11(5) of the Act. On the contrary in paragraph 3.2 of the impugned order, Respondent No. 1 has recorded a finding that the Petitioner had submitted copies of fixed deposit certificates with Bank of Maharashtra and Central Bank of India, which is a specified mode of investment in terms of Section 11(5) of the Act. Thus, this reason, as now sought to be raised in the Affidavit-in-Reply, does not merit acceptance.

14. It is further noted that the denial of exemption under Section 11 has resulted in a huge tax liability, which, in turn, would significantly dilute the corpus of the Trust and cause genuine hardship, thereby affecting its ability to carry out its charitable activities. The provisions for condonation of delay are intended to mitigate such hardships where the default is not wilful. In fact,

Section 119(2)(b) of the Act places considerable emphasis on the hardships that would be caused if the delay is not condoned. In the present case, considering the hardship that would be caused to the Petitioner, the same becomes the prime reason to interfere and condone the delay. We derive support from the decision of this Court in case of *Sitaldas K. Motwani vs. Director General of Income-tax (International Taxation), New Delhi [(2010) 323 ITR 223 (Bombay)]*.

15. It is also pertinent to note that it has been held by various High Courts that provisions regarding furnishing of audit report with the Return has to be treated as a procedural provision. It is directory in nature and its substantial compliance would suffice. Thus, if such report is filed on or before the completion of assessment or even at the time of assessment, then the Courts have held the same to be a sufficient compliance. In the present case, Form No. 10 was filed on 18th July 2020 which was much before the intimation under Section 143(1) was issued on 12th December 2020 and therefore, amounts to sufficient compliance. If at all any support is required then reference can be made to the decision in case of *Sarvodaya Charitable Trust v. ITO (exemption) [(2021) 278 Taxman 148 (Gujarat)]*.
16. The decisions relied upon by the Revenue are not relevant to the facts of the

present case, as in the present case we are concerned with the provisions of Section 119 of the Act, which is a beneficial provision conferring powers on the Commissioner to grant certain leeway to the assessees where there is certain non-compliance under the Act. Thus, powers under Section 119 are to be exercised only when an Assessee fails to comply with the provisions of the Act and which results in undue hardship. It is to mitigate such hardships that powers under Section 119 are to be exercised. The judgments in *Dilip Kumar (supra)* and *Wipro (supra)* have nothing to do with the provisions of Section 119 of the Act and have, therefore, no application to the facts of the present case.

17. In view of the foregoing discussion, the impugned order dated 18th March 2025 is quashed and set aside. The delay of 260 days in furnishing Form No. 10 for Assessment Year 2019-20 hereby stands condoned. The intimation dated 12th December 2020 issued under Section 143(1) of the Act is also quashed and set aside. The Respondents shall reprocess Petitioner's Return for Assessment Year 2019-20, treating Form No. 10 as duly furnished pursuant to this condonation, and consider the claim of accumulation of Rs. 70,00,000/- in accordance with law. In other words, the claim shall not be denied on the ground of delayed furnishing of Form No. 10.

18. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.
19. This order shall be digitally signed by the Private Secretary / Personal Assistant of this Court. All concerned parties shall act upon such digitally signed copy of this order downloaded from the official website of the Bombay High Court.

(FARHAN P. DUBASH, J.)

(B. P. COLABAWALLA, J.)

Shubham Gadhavepatil