IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ALPESH Y. KOGJE,

CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 20th OF NOVEMBER, 2026

WRIT PETITION No. 44031 of 2026

CNR No.: MPHC010782242026

M/S RAJUL PROPERITIES PRIVATE LIMITED 1813 SILVER OAK COMPOUND RUSSEL CHOWK

Versus

CENTRAL BOARD OF DIRECT TAXES (CBDT) AND OTHERS

Appearance:

Shri Sumit Nema - Senior Advocate with Shri Ayush Gupta - Advocate for the petitioner .

Shri Siddharth Sharma and Shri Mayank Upadhyaya - Advocates for respondents.

ORDER

Per. Hon'ble Shri Justice Alpesh Y. Kogje, Chief Justice

This petition is filed under Article 226 of the Constitution of India for quashing of order dated 10.06.2026 passed by the Director General of Income Tax (Investigation), Bhopal under Section 119(2)(b) of the Income Tax Act, 1961. By the impugned order the application of the petitioner, for condoning delay of 58 days in filing return of income for Assessment Year 2023-24, insofar as it concerned for carrying forward of its current year business loss, came to be rejected. The petitioner has, therefore, prayed for quashing of the impugned order as well as seeking issuance of the writ directing the respondents to condone delay

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of 58 days in filing the return of income for Assessment Year 2023-24 and allow the application of the petitioner dated 09.01.2026 under Section 119(2)(b) of the Income Tax Act and allow the carry forwarding of the current year business loss. In the alternative, the prayer is made to remit the matter back to the competent authority for fresh decision on the application of the petitioner dated 09.01.2026.

02. Learned counsel for the petitioner has argued that the impugned order requires to be interfered with as the same does not take into consideration that the petitioner had faced seizure and search by the department for the period between 26.09.2023 to 30.09.2023 and the copies pertaining to seizure and search were made available to the petitioner on 25.10.2023 and the due date was 31.10.2023 that is to say only period of six days was available which it is submitted that was highly insufficient considering the record involved and, therefore, the petitioner could complete the audit and file his return only on 28.12.2023 with a delay of 58 days.

03. It is submitted that without hearing the petitioner on this issue and rather on irrelevant grounds, the application came to be rejected and thereby depriving the petitioner to carry forward the genuine business loss.

04. It is submitted that Section 119(2)(b) of the Act empowers the CBDT to relax the time limit prescribed under the Act where a cause of genuine hardship to the assessee is made out. It is submitted that though the petitioner has pleaded genuine hardship, by the impugned order without assigning reason merely by holding that the facts do not merit the relief as it does not meet the criteria for genuine hardship, the application was rejected, however, it does not deal with the facts that the search under Section 132 of the Act was conducted on the premises of the petitioner and books of accounts and electronic records were under seizure.

05. Learned counsel for the petitioner has referred to a Circular No.11/24 and

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submitted that if the assessee is prevented by reasonable cause from filing the return in time and if the case of genuine hardship on merit is made out, then the delay can be condoned. However, the application was rejected only on the ground that the condition of genuine hardship is not found in Section 119(2)(b) of the Act or in CBDT Circular No.11/2024. However, the impugned order itself, which reproduces the conditions laid down in the circular, specifies the condition of assessee prevented by reasonable cause from filing the return in time and the case is of a genuine hardship and in this connection necessary inquiries may also be made by the Inquiry Officer. It is submitted that it is not the requirement that the petitioner ought to have made an application for receiving the documents or copies of the seized books, but it is for the department to permit the inspection of such document which ultimately the department had done later on i.e. on 25.10.2023, as the department admittedly had the documents under seizure. This is a sufficient cause to prevent the petitioner from taking necessary action and the Respondent No.2 has failed to take into consideration this aspect.

05. Learned counsel for the department has objected to the petition submitting that the detailed report of the P.C.I.T., (Central), Bhopal was taken into consideration while passing the impugned order and that no supporting documents have been annexed by the petitioner to prove that the assessee had filed a request application for providing seized documents to file income tax return of the relevant year.

06. Learned counsel for the petitioner has, thereafter, relied upon the decision of this Court in the case of *Dilip Buildcon Ltd. Vs. Union of India* reported in *(2016) 290 CTR 577* to submit that non-availability of documents for filing the income tax return on account of action of search and seizure is a valid ground to be treated as a genuine hardship.

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07. Having heard learned advocates for the parties and having perused the documents on record. It is a case of the petitioner that the petitioner, M/s Rajul Properties Private Limited, is a private limited company engaged in the business of real estate development and allied activities and is subject to tax audit under Section 44AB of the Income Tax Act, 1961. The petitioner vide its application has pleaded that the due date for filing the tax audit report and return of income under Section 139(1) for A.Y. 2023-24 was 30.10.2023, however, a search and seizure operation under Section 132 of the Act was conducted at the business premises and the residential premises of its directors from 26.09.2023 to 30.09.2023, during which books of account, digital records, and electronic data were seized, thereby disrupting the petitioner's accounting and compliance activities. In view of these circumstances beyond its control, the petitioner filed the tax audit report in Form 3CA/3CD on 27.12.2023 and the belated return of income/loss under section 139(4) on 28.12.2023, wherein the petitioner has declared a business loss of Rs. 1,41,21,101/- for FY 2022-23 and brought forward losses of Rs. 2,00,26,315/-from FY 2021-22. It is also a case that since the return was filed belatedly under section 139(4), it has been denied the benefit of carry forward of losses under section 80 read with section 139(3) of the Act resulting in genuine hardship to the petitioner. The petitioner has placed reliance on Central Board of Direct Taxes Circular No.11/2024 dated 01.10.2024. The circular authorizes the Income Tax authorities to admit an application or claim for refund and carry forward of loss and set off thereof and prescribes the revised monetary limits to consider application under section 119(2)(b).

08. Circular No.11/24 dated 01.10.2024 provides as under :-

> "i. At the time of considering the case under section 119(2)(b) of the Act, it shall be ensured that assessee was prevented

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> by reasonable cause from filing the return of income within the due date and that the case is of genuine hardship on merits.
> ii. the authorities dealing with the case shall be empowered to direct the jurisdictional Assessing Officer to make necessary inquiries in accordance with the provisions of the Act to ensure that the application is dealt on merits in accordance with law."

09. The Court may refer to Section 132(9) of the Act, which provides that a person from whose custody any books of account or other documents are seized, may make copies thereof or take extracts therefrom, in the presence of the authorised officer. This provision, as rightly argued by the petitioner, does not contemplate making of a separate application for receiving such documents which are under seizure.

10. The facts of the matter are the search and seizure operation under Section 132 of the Act was conducted at various premises between 26.09.2023 to 30.09.2023. The prescribed due date for uploading the return was 30.09.2023 and vide Circular No.16/2023 dated 18.09.2023 the due date was extended to 30.11.2023. The seized records were made available only on 25.10.2023 that is much after the prescribed due date. Though, the due date was extended till 30.11.2023, in view of the fact that the seized documents were made accessible to the petitioner only on 25.10.2023, the same would amount to a good ground because of which the petitioner could file the income tax return with delay. The delay if at all is considered, then also it is only for a period of 58 days.

11. The Court has also taken into consideration the decision of this Court in the case of *Dilip Buildcon Ltd.* (supra) wherein in Paragraph No.12 considering the issue of non-availability of documents under seizure which was treated to be genuine hardship and, therefore, the case is made out for condoning the delay.

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12. Resultantly, the petition deserves consideration and the delay condonation application dated 09.01.2026 before the Assistant Commissioner of Income Tax is required to be allowed on facts. The authority, therefore, may now undertake the proceedings.

13. Resultantly, the petition deserve to and is hereby allowed. The delay application dated 09.01.2026 filed by the petitioner before the Assistant Commissioner Income Tax (Respondent No.4) is allowed. Consequentially, the Respondent No.4 may further process the return of income in accordance with law.

(ALPESH Y. KOGJE)
CHIEF JUSTICE

(VIVEK JAIN)
JUDGE

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