IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT PETITION NO: 2837 & 2998 OF 2025

W.P.No.2837 OF 2025

Between:

Bhagini Mandal (trust), Rep by it president Mrs.Seema Hipplgaonkar O/o 4-1-8 Tilak Road, Barkatpura, S.O. Nampally, Hyderabad- 500027

...PETITIONER

AND

1. Principal Chief Commissioner of Income Tax, North Block, New Delhi
2. The Income Tax Department, Income Tax Department. Hyderabad
3. Assessment Unit, E-Ramp Jawaharlal Nehru Stadium. New Delhi

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ Order or Direction declaring the order passed by the 1st Respondent in DIN and order No. ITBA/COM/F/17/2024-25/1072127904(1) dated 13-01-2025 for the AY 2015-16 rejecting the Condonation of delay application as arbitrary illegal bad in law, violative of the principles of natural justice apart from being violative of Articles 14,19g and 265 of the Constitution of India and consequently set aside the same in the interests of justice.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased please direct the respondents to stay all further proceedings, including any recovery, pursuant to the order issued by the 1st Respondent, DIN and order No. ITBA/COM/F/17/2024-25/1072127904(I) dated 13-01-2025, for the Assessment Year 2015-16, pending disposal of the Main Writ Petition.

Counsel for the Petitioner : Ms.HIMANGINI SANGHI

Counsel for the Respondents: SRI A.RAMAKRISHNA REDDY, SC FOR IT DEPT

W.P.No.2998 OF 2025

Between:

Bhagini Mandal (trust), Rep by it president Mrs.Seema Hipplgaonkar O/o 4-1-8 Tilak Road, Barkatpura, S.O. Nampally, Hyderabad- 500027

...PETITIONER(S)

AND

1. Principal Chief Commissioner of Income Tax, North Block, New Delhi
2. The Income Tax Department, Income Tax Department, Hyderabad
3. Assessment Unit, Room No 401. 2nd Floor, E-Ramp Jawaharlal Nehru Stadium, New Delhi

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ Order or Direction declaring the order passed by the 1st Respondent in DIN and order No. ITBA/COM/F/17/2024-25/1072128180(1) dated 13-0 I -2025 for the AY 2014-15 rejecting the Condonation of delay application as arbitrary illegal bad in law, violative of the principles of natural justice apart from being violative of Articles

14,19g and 265 of the Constitution of India and consequently set aside the same in the interests of justice and to pass in the interest of justice.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased please direct the respondents to stay all further proceedings, including any recovery, pursuant to the order issued by the 1st Respondent, DIN and order No. ITBA/COM/F/17/2024-25/1072128180(1) dated 13-01-2025, for the Assessment Year 2014-15, pending disposal of the Main Whit Petition.

Counsel for the Petitioner : Ms.HIMANGINI SANGHI

Counsel for the Respondents: SRI A.RAMAKRISHNA REDDY, SC FOR IT DEPT

The Court made the following: COMMON ORDER

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT. JUSTICE RENUKA YARA

WRIT PETITION Nos.2837 and 2998 of 2025

COMMON ORDER: *(Per Hon'ble The Acting Chief Justice)*

With the consent finally heard. Ms. Himangini Sanghi, learned counsel for the petitioner and Sri A. Ramakrishna Reddy, learned Standing Counsel for the Income Tax Department, for respondents.

2. Regard being had to the similitude of the questions involved on the joint request of the parties, these matters were analogously heard and decided by this common order.

3. In W.P.Nos.2837 and 2998 of 2025, the orders dated 13.01.2025, whereby the applications filed for condonation of delay of 3198 and 3533 days respectively in filing Form 10-B of the Income Tax Act, 1961, pertaining to Assessment Years 2015-16 and 2014-15, were rejected.

4. Learned counsel for the petitioner submits that petitioner is a charitable Trust. By placing reliance on additional affidavit, it is submitted that apart from the aforesaid two years, the petitioner submitted returns in time for last 45 years. The delay occurred because the Chartered Accountant of the petitioner's Trust was

unwell and has undergone brain surgery. In this backdrop, a lenient view should have been taken, when ample power was there with competent authority. The impugned rejection orders run contrary to the judgments of the Gujarat and Bombay High Courts in **Sarvodaya Charitable Trust v. Income-tax Officer (Exemption)**[1] and **Al Jamia Mohammediyah Education Society v. Commissioner of Income-tax (Exemptions)**[2] respectively.

5. Learned Standing Counsel for the Income Tax Department submits that in view of enormous delay on the part of the petitioner, no fault can be found in the impugned orders.

6. The parties have confined their arguments to the extent indicated above.

7. Learned counsel for the petitioner categorically pleaded that the petitioner is a charitable Trust and in last 45 years without there being any default, returns were filed. Thus, on two occasions if delay had occurred because of reasons beyond the control of the petitioner, a lenient view should have been taken.

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[1] (2021) 18 ITR-OL 253
[2] (2025) 482 ITR 41

8. The Gujarat High Court in **Sarvodaya Charitable Trust** (supra) recorded as under:

> **"30.** We may also refer to and rely upon a decision of the Delhi High Court in the case of G. V. Infosutions (P.) Ltd. v. Dy. CIT reported in (2019) 13 ITR-OL 164 (Delhi) ; [2019] 261 Taxman 482 (Delhi). We may quote the relevant observations thus (page 170 of 13 ITR-OL) :
>
> > "8. The rejection of the petitioner's application under section 119(2)(b) is only on the ground that according to the Chief Commissioner's opinion the plea of omission by the auditor was not substantiated. This court has difficulty to understand what more plea or proof any assessee could have brought on record, to substantiate the inadvertence of its advisor. The net result of the impugned order is in effect that the petitioner's claim of inadvertent mistake is sought to be characterised as not bona fide. The court is of the opinion that an assessee has to take leave of its senses if it deliberately wishes to forego a substantial amount as the assessee is ascribed to have in the circumstances of this case. 'Bona fide' is to be understood in the context of the circumstance of any case. Beyond a plea of the sort the petitioner raises (concededly belatedly), there cannot necessarily be independent proof or material to establish that the auditor in fact acted without diligence. The petitioner did not urge any other grounds such as illness of someone etc., which could reasonably have been substantiated by independent material. In the circumstances of the case, the petitioner, in our opinion, was able to show bona fide reasons why the refund claim could not be made in time.
> >
> > 9. The statute for period of limitation prescribed in provisions of law meant to attach finality, and in that sense are statutes of repose ; however, wherever the Legislature intends relief against hardship in cases where such statutes lead to hardships, the concerned authorities, including the Revenue authorities have to construe them in a reasonable manner. That was the effect and purport of this court's decision in Indglonal

Investment and Finance Ltd. v. ITO [2012] 343 ITR 44 (Delhi). This court is of the opinion that a similar approach is to be adopted in the circumstances of the case."

31. Having given our due consideration to all the relevant aspects of the matter, we are of the view that the approach in the cases of the present type should be equitious, balancing and judicious. Technically, strictly and liberally speaking, the respondent No. 2 might be justified in denying the exemption under section 12 of the Act by rejecting such condonation application, but an assessee, a public charitable trust past 30 years who substantially satisfies the condition for availing of such exemption, should not be denied the same merely on the bar of limitation especially when the Legislature has conferred wide discretionary powers to condone such delay on the authorities concerned.

32. We may also refer to the decision of this court in CIT v. Gujarat Oil and Allied Industries [1993] 201 ITR 325 (Guj), wherein it is held that the provision regarding furnishing of audit report with the return has to be treated as a procedural proviso. It is directory in nature and its substantial compliance would suffice. In that case, the assessee had not produced the audit report along with the return of income but produced the same before the completion of the assessment. This court took the view that the benefit of exemption should not be denied merely on account of delay in furnishing the same and it is permissible for the assessee to produce the audit report at a later stage either before the Income-tax Officer or before the appellate authority by assigning sufficient cause."

(Emphasis Supplied)

9. The aforesaid judgment was considered by the Bombay High Court in **Al Jamai Mohammediyah Education Society** (supra) and it was held as under:

6. Admittedly, the petitioner is a charitable trust. Admittedly, the petitioner has been filing its returns and form 10B for the assessment year 2015-2016, for the

assessment year 2017-2018 to assessment year 2021-2022 within the due dates. On this ground alone, in our view, the delay condonation application should have been allowed because the failure to file returns for the assessment year 2016-2017 could be only due to human error. Even in the impugned order, there is no allegation of mala fides. As held by the Gujarat High Court in *Sarvodaya Charitable Trust* v. *ITO (Exemption)* [(2021) 18 ITR-OL 253 (Guj); 2020 SCC OnLine Guj 3597; (2021) 125 taxmann.com 75 (Guj).] , the approach in the cases of the present type should be equitous, balancing and judicious. Technically, strictly and liberally speaking, respondent No. 1 might be justified in denying the exemption by rejecting such condonation application, but an assessee, a public charitable trust with almost over thirty years, which otherwise satisfies the condition for availing of such exemption, should not be denied the same merely on the bar of limitation especially when the Legislature has conferred wide discretionary powers to condone such delay on the authorities concerned. Paragraphs 30 and 31 of *Sarvodaya Charitable Trust* v. *ITO (Exemption)* [(2021) 18 ITR-OL 253 (Guj); 2020 SCC OnLine Guj 3597; (2021) 125 taxmann.com 75 (Guj).] reads as under (page 271 of 18 ITR-OL):

> "30. We may also refer to and rely upon a decision of the Delhi High Court in the case of *G.V. Infosutions Pvt. Ltd.* v. *Dy. CIT* [(2019) 13 ITR-OL 164 (Delhi); 2019 SCC OnLine Del 6861; (2019) 102 taxmann.com 397 (Delhi); (2019) 261 Taxman 482 (Delhi).] . We may quote the relevant observations thus (page 170 of 13 ITR-OL):..."

(Emphasis Supplied)

10. If the factual backdrop of the present case is considered, in the light of aforesaid judgments of the Gujarat and Bombay High Courts, it will be clear like noon day that there is lot of similarity amongst these matters. The petitioners before both the High Courts were also Charitable Trusts and delay was occasioned because of compelling reasons. The Courts opined that the

assessee is a public Charitable Trust and for last three decades have substantially satisfied the conditions. Denial on the basis of bar of limitation is not justified. The case of the petitioner herein is somewhat on better footing because it has a record of compliance for 45 years.

11. In this backdrop, both the Writ Petitions are **allowed** by setting aside the impugned rejection orders dated 13.01.2025 and consequently, the delay of 3198 and 3533 days respectively are condoned. The respondents are directed to proceed in accordance with law from that stage. There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

SD/-T. JAYASREE
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Chief Commissioner of Income Tax, North Block, New Delhi
2. The Income Tax Department, Income Tax Department. Hyderabad
3. The Assessment Unit, E-Ramp Jawaharlal Nehru Stadium. New Delhi
4. One CC to Ms.HIMANGINI SANGHI, Advocate. [OPUC]
5. One CC to SRI A.RAMAKRISHNA REDDY, SC for Income Tax Department. [OPUC]
6. Two CD Copies.

BSK

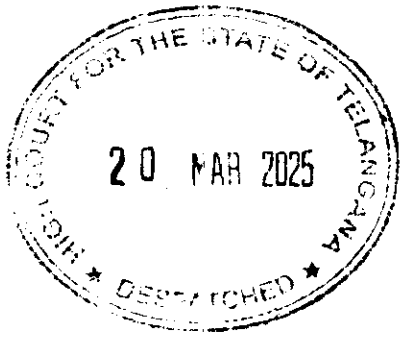
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HIGH COURT

DATED:17/02/2025

COMMON ORDER

WP.No.2837 & 2998 of 2025



ALLOWING THE WRIT PETITIONS WITHOUT COSTS

B

K.B

17/3/25