



CWP-3712-2025(O&M)

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CWP-3712-2025(O&M)
Decided on :- 11.02.2025**

M/s Silver Rock Educational Charitable Society,
Victoria International School

...Petitioner

VERSUS

Commissioner of Income Tax (Exemptions) and Others

...Respondents

**CORAM : HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. J.S.Bhasin, Advocate for the petitioner.
(through Video Conferencing)

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SUDEEPTI SHARMA, J.

The present writ petition is preferred under Article 226 of the Constitution of India for quashing of impugned order dated 31.07.2024 passed under Section 119(2)(b) of the Income Tax Act, 1961 (for short, the Act), whereby the condonation of delay in filing of audit report in Form 10BB for the Assessment Year 2022-2023 was declined.

2. Learned counsel for the petitioner contends that his application for condonation of delay in filing Form No.10BB is wrongly rejected by the learned Commissioner of Income Tax (Exemptions). He further contends that inadvertently Form No.10B was filed instead of 10BB, which was required to be filed and on learning the inadvertence Form 10BB was filed on 21.02.2023.

3. We have heard learned counsel for the petitioner and perused the whole record of the case in hand.



CWP-3712-2025(O&M)

-2-

4. The Assessment Year involved in the present writ petition is 2022-2023. The petitioner as per the pleadings was claiming exemption under Section 10(23C)(vi) of the Act. The petitioner was required to file audit report in Form 10BB by 31.09.2022 (extended till 07.10.2022) for the Assessment Year 2022-2023, whereas he filed audit report in Form 10BB on 21.02.2023. Since there was a delay in filing Form 10BB, therefore, the petitioner moved an application for condonation of delay in filing Form 10BB under Section 119(2)(b) of the Act before CIT (Exemptions), who rejected his application for condonation of delay under Section 119(2)(b) of the Income Tax Act, 1961. Hence the present petition challenging the same.

5. A perusal of the impugned order dated 31.07.2024 shows that the application for condonation of delay was filed before the CIT (Exemptions), which is reproduced as under:-

“I had written letter and send my Prayer for Condonation of delay to Hon'ble Chief Commissioner of Income Tax (Exemption), New Delhi but since the delay is less than one year, the Jurisdiction for condolence of delay Dis lies with your honour.

In this regard, it is submitted that we had filed the return of income and form No.10B for the assessment year 2022-23. Form No.108 was filed on 31-08-2022. A copy of acknowledgement is submitted herewith marked as Annexure A. The Income tax return was filed vide Acknowledgement No.463086241010922 on 01.09.2022. A copy of the acknowledgment is submitted herewith as Annexure B.

2. It is submitted that form No.10 B was filed inadvertently whereas it was VICTORM form No.10BB which was required to be filed. On



learning about this inadvertence, we had filed form No.10BB on 21.02.2023. A copy of this acknowledgment number is submitted herewith marked as Annexure C. It is submitted that since the cause of delay is bonafide and it is due to sheer inadvertence, it is, therefore, humbly prayed that condonation of delay in filing form No.10BB of 143 days may most kindly be condoned which is calculated hereunder:-

Due date of filing of Return 30.09.2022

Date when form No.10BB was filed:21.02.2023

Delay 143 days.”

6. The petitioner filed application for condonation of delay by seeking relief under sub-Clause (b) of sub-Section (2) of Section 119 of the Income Tax Act, 1961, which is reproduced as under:-

"(2) Without prejudice to the generality of the foregoing power,-

*(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. authorize any income-tax authority, not being [a Joint Commissioner (Appeals) or] a Commissioner (Appeals) 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 perusal of the above shows that the Board for avoiding any genuine hardship, authorizes any income-tax authority to admit an application or claim for any exemption, deduction, refund or any other relief under the Income Tax Act

**CWP-3712-2025(O&M)**

-4-

after the expiry of period specified by or under the Act and deal with the same on merits in accordance with law. Therefore, the delay can be condoned only in cases where there is genuine hardship - due to which the applicant could not file the claim within the statutory time line.

8. The reasoning given by the petitioner for delay in submission of Form 10BB that Form 10B instead of 10BB was advertently filed, does not show any hardship as has been rightly observed by the learned CIT (Exemptions). Further when the application was moved before the CIT (Exemptions) for condonation of delay in filing Form 10BB, a report was called from the Assessing Officer through Additional Commissioner of Income Tax (Exemptions), Range I, Chandigarh and as per his report, even for the Assessment Year 2023-2024, there is a delay of 140 days in filing the audit report in Form 10BB, which clearly shows the negligent conduct of the petitioner.

9. In view of the above, CIT(Exemption) has rightly rejected the application for condonation of delay under Section 119(2)(b) of the Act in filing of Form 10BB for the Assessment Year 2022-2023. We do not find any infirmity in the impugned order dated 31.07.2024, thus, the same is affirmed and the present writ petition is dismissed being devoid of any merit.

10. Pending applications, if any, also stand disposed of.

(ARUN PALLI)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

February 11, 2025
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Whether speaking/non-speaking : Speaking
Whether reportable : Yes