



BOM HC: Condones 430 Days Bonafide Delay In Filing Form No. 10 Sans Statutory Time Limit; Adopts Liberal & Justice Oriented Approach

Facts of the Case

The Petitioner, Bombay Prathana Samaj, is a public charitable trust registered u/s 12A of the Income-tax Act, 1961 ('the Act') since 1976 and has been regularly complying with various obligations for seeking exemption u/s 11 of the Act. For AY 2015-16, the Petitioner filed its return of income on October 16, 2016, declaring nil income after claiming accumulation u/s 11(2) amounting to Rs. 29,07,202. However, Form No. 10, required for claiming accumulation u/s 11(2), was not filed at the time of filing of the return of income.

Subsequently, CPC issued an intimation u/s 143(1) denying the benefit of accumulation and raised a tax demand of Rs. 6,58,740. Thereafter, the Petitioner filed Form No. 10 on January 3, 2017. During assessment proceedings u/s 143(3), the exemption was denied on the ground that Form No. 10 was not filed at the time of filing of return of income and therefore the said amount of accumulation of Rs. 29,07,202 was added back.

Thereafter, the Petitioner filed an application u/s 119(2)(b) seeking condonation of delay of 430 days in filing Form No. 10. The Commissioner of Income-tax (Exemptions) ('CIT(E)') rejected the condonation application vide order dated March 7, 2025. Aggrieved by the decision of CIT(E), the Petitioner filed a writ petition before the Bombay High Court.

Contentions of the Petitioner

The petitioner contended that the delay in filing Form No. 10 was purely inadvertent and bona fide. It was submitted that the accounts of the trust were finalized by an accountant who was employed with other organizations and with the petitioner trust on a honorary basis, and therefore, Form No. 10 could not be filed at the time of filing of the return of income. It was further contended that denial of condonation would cause genuine hardship by depriving the trust of exemption available u/s 11 and imposing an unnecessary tax burden.

Contentions of Revenue

The Revenue contended that filing of Form No. 10 within the prescribed statutory time limit is a mandatory requirement for availing accumulation benefit u/s 11(2). Since the petitioner failed to file Form No. 10 at the time of filing of the return of income, the exemption was rightly denied during assessment proceedings. The Revenue further supported the order passed by the CIT(E), rejecting the condonation application u/s 119(2)(b).



Observations and ruling of High Court

The Bombay High Court observed that while exercising powers u/s 119(2)(b), the authorities are expected to adopt a justice-oriented, equitable and liberal approach instead of a rigid and technical one. The Court relied upon the judgment of the Supreme Court in *CIT v. Nagpur Hotel Owners' Association (247 ITR 201)*, wherein it was held that furnishing of Form No. 10 before completion of assessment constitutes sufficient compliance with the law. The Court further noted that in several earlier cases involving similar delays in filing Form No. 10, the Bombay High Court had consistently adopted a liberal approach and condoned the delays.

The Court observed that availing of exemption should not be denied merely on the bar of limitation, particularly when the legislature itself has conferred discretionary powers u/s 119(2)(b) to mitigate genuine hardship. It was further held that refusal to condone the delay would unjustly deprive the assessee of exemption u/s 11 and result in an unwarranted tax demand. Accordingly, the High Court quashed and set aside the impugned order passed u/s 119(2)(b) dated March 7, 2025, and condoned the delay of 430 days in filing Form No. 10 for AY 2015-16. The Revenue authorities were also directed to reprocess the return by treating Form No. 10 as having been filed within time.

Citation:

Bombay Prathana Samaj [TS-585-HC-2026(BOM)]

Our Comments

This ruling reinforces the settled legal principle that procedural lapses should not override substantive entitlement to exemption, particularly in matters concerning charitable and religious trusts. The Bombay High Court has emphasized that the powers granted u/s 119(2)(b) are intended to alleviate genuine hardship and therefore must be exercised in a liberal and equitable manner where the assessee demonstrates bona fide reasons for delay.

The ruling would provide substantial relief to charitable institutions whose exemption claims are denied merely due to delayed filing of statutory forms despite there being no mala fide intention or deliberate non-compliance. Of course, even as regards procedural compliances, the tax payer is expected to be vigilant as the law does not help those who sleep over their rights.