IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11261 OF 2025

Savitribai Phule Shikshan Prasarak
Mandal, Kamlapur .. Petitioner

Versus

Directorate General of Income Tax
Investigation (Investigation) Pune & Ors. .. Respondents

Mr. Saurabh S. Soparkar (Senior Counsel) a/w Mr. Sanket S. Bora a/w Ms. Vidhi K. Punmiya a/w Mr. Amiya R. Das i/b. SPCM Legal *Advocates for the Petitioner.*

Mr. Ashok Kotangle a/w Mr. Vishnu Chaudhari, Mr. Nikitesh Kotangle, Ms. Neha Pende*, Advocates for the Respondents/Revenue.*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.

DATE: NOVEMBER 12, 2025

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1. Rule. Respondents waive service. With the consent of the parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition is filed seeking to quash and set aside the orders dated 17th March 2025 and 30th June 2025 passed by Respondent No. 1 rejecting the Petitioner's application for condonation of delay in filing it's Form 9A for the Assessment Year 2022-23. The other relief sought is a

direction to Respondent No. 1 to condone the delay of approximately 1 year 4 months in the filing of the said Form 9A for Assessment Year 2022-23.

3. The present matter pertains to Assessment Year 2022-23. The Petitioner filed its Return of Income on 19th October 2023 declaring its total income as *Nil* after claiming exemption under Section 11 of the Income-tax Act.

4. The Explanation below Section 11(7) of the Income Tax Act, 1961 was inserted vide Finance Act, 2022 by which the Charitable Trusts were required to claim the Application of Income on an “Actual Payment Basis”. It is the case of the Petitioner that referring to the *‘67th’ Edition of Taxmann’s Income Tax Act’*, it had a bonafide belief that the said provision is applicable w.e.f. A.Y. 2023-24. Hence, it claimed the Application of Income on the basis of the “Accrual System” while filing the ITR. Since its Application of Income was more than 85% of its income, the Petitioner did not find it necessary to file Form No. 9A as provided in Explanation 1 to Section 11(1) of the Income-tax Act, in respect of the income which was not actually received during the year.

5. It is the case of the Petitioner that during the assessment proceedings under Section 143(3) of the Income-tax Act, for the present assessment year, it came to the knowledge of the Petitioner that the Explanation below Section 11(7) was actually applicable from A.Y. 2022-23, and hence, the same would be considered on Actual Payment Basis only. Since the Application of Income of the Petitioner was falling short of 85% of the total income on "Actual Payment Basis", the Petitioner submitted Form 9A on 30th March 2024 in respect of income not actually received during the year. It thereafter also filed an application under Section 119(2)(b) of the Income-tax Act on 8th July 2024 before Respondent No. 1 seeking a condonation of delay of approximately 509 days in filing its Form 9A for Assessment Year 2022-23.

6. Respondent No. 1, by the impugned order dated 17th March 2025, refused to condone the delay on the ground that placing reliance on publications such as *"Taxmann",* cannot be a sufficient ground for the delay.

7. Being aggrieved by the impugned order dated 17th March 2025, the Petitioner preferred a Review Application dated 28th March 2025 before the Respondent No. 1 on various grounds, which can be summarized as follows:

a. Non-consideration of Judicial Precedents

b. Binding Nature of High Court Decisions.

c. Exercise of Discretion in Favour of Charitable Institutions.

8. Respondent No. 1, by the impugned order dated 30th June 2025 rejected the said Review Application on the foundation that no new facts were brought on record to show any mistake apparent from the record.

9. We must mention that the Petitioner, in its Petition, has mentioned that the Petitioner Trust has been timely filing its return of income since Assessment Year 2015-16.

10. We also note that pursuant to our order dated 13th October 2025, the Petitioner's Chartered Accountant has also filed his Affidavit explaining the delay in filing of the Petitioner's Form 9A on account of his reliance on the misprint of the Bare Act of the *"Taxmann"* Publication. The said Affidavit reconfirms the Petitioner's averments in its application under Section 119(2)(b) of the Income-tax Act and the present Writ Petition.

11. In the backdrop, Mr. Kotangle, the learned Advocate for the Revenue, submits that the Petitioner ought to have relied on the true text of

the Finance Act, 2022 and the Guidance Note issued by the Institute of Chartered Accountants of India (ICAI), instead of relying on Bare Acts issued by Private Publications. He further submits that the Petitioner has been negligent in filing its Form 9A and thereby incurring a delay of 1 year 4 months and accordingly, such a negligent approach does not warrant the benefits of Section 119(2)(b) of the Income-tax Act.

12. He further states that the plea of the ignorance of the true scope and effective date of the amendment brought by the Finance Act, 2022 is untenable in law. It is a settled legal principle that ignorantia juris non excusat (ignorance of law is no excuse). The statutory provision, as enacted by Parliament and notified in the Gazette, clearly provided that the amendment regarding the due date of filing Form 9A applied with effect from 1st April 2022, covering Assessment Year 2022-23. In the notes on Clauses proposing the amendment vide Finance Bill 2022, it is clearly mentioned that the said explanation will be applicable from A.Y. 2022-23 and subsequent years. The authoritative source of law is the Finance Act as published in the Official Gazette, and not any commercial publication, however reputed. Mr. Kotangle further submits that it is the responsibility of the assessee and its authorised representatives to verify the correct legal position from the primary source. Reliance on a third-party publication, without cross-checking

the statutory text as enacted, cannot constitute "genuine hardship" under Section 119(2)(b).

13. Mr. Kotangle also submits that in the present case, the delay of 509 days in filing Form 9A arose solely from the Petitioner's own misinterpretation of the amendment introduced by the Finance Act, 2022 and reliance on a commercial publication, rather than on the statutory text or official notifications. On 1st September 2022,, the Central Board of Direct Taxes (CBDT) issued a clarification specifying that the amendment relating to income on an "Actual Payment Basis" would be effective from Assessment Year 2022-23. Consequently, the Institute of Chartered Accountants of India (ICAI) issued a communication on the same date, further reinforcing the applicability of the provision from 1st April 2022. The clarity provided by these authoritative sources underscores that the relevant provisions applicable to the Assessment Year in question were sufficiently in the public domain. These are matters within the Petitioner's control and do not constitute "genuine hardship" in the legal sense. He, therefore, submitted that there is no merit in the above Petition, and the same be dismissed.

14. Having heard the learned Counsel for the parties we find that the Petitioner has made out a case for condonation of delay under Section 119(2)

(b). We say this because the *Taxmann* Publication is a renowned Publication in the Taxation field whereby majority of the Tax Practitioners, Advocates, Chartered Accountants, Jurists, etc. refer to the Bare Act of the Income Tax Act published by them. The Petitioner or its Tax Advisor would never know that such a publication would carry a mistake as to the date from which an amendment to the Income Tax Act, 1961 has been made applicable. Though we agree with Mr. Kotangle that the Petitioner ought to have been more careful, a bonafide mistake in relying on a misprint contained in such a publication on which almost everyone relies, cannot oust the Petitioner from the beneficial provision of Section 119(2)(b) of the Income-tax Act. The Petitioner realised its mistake only during course of assessment proceedings when the contention of the Assessee, based on the *Taxmann* publication, that the amendment has become effective from the next Assessment Year, was rejected by the Assessing Officer. Thereupon the Assessee immediately filed Form No. 9A on 30th March 2024. However, the Assessing Officer pointed out the delay in filing Form 9A by the Petitioner and therefore denied the benefit of Sections 11 and 12 to the Petitioner. In view of these facts, we find that the delay in filing Form No. 9A was inadvertent and Respondent No. 1 ought to have condoned the delay. Further, the Petitioner would not be at an advantage or gain any benefit from the delay in filing its Form 9A. In fact,

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grave hardship would be caused to the Petitioner if the delay in filing Form 9A is not condoned.

15. In view of the aforesaid discussion, we are of the view that this is a fit case where Respondent No. 1 ought to have condoned the delay in filing Form 9A. The Petitioner Trust would suffer grave hardship if the delay is not condoned since the Petitioner would be saddled with a huge tax liability for merely not filing Form 9A within time. The Petitioner -Trust ought not to be foisted with such hardship because of a misprint in the Bare Act published by a renowned Publication such as the *Taxmann* Publication. The Petitioner does not seem to gain any benefit from such a delay in filing Form 9A.

16. We accordingly quash and set aside the impugned order dated 17th March 2025 passed by Respondent No. 1 under Section 119(2)(b) of the IT Act.

17. Now that the impugned order is quashed, we also hereby condoned the delay on the part of the Petitioner Trust in filing of Form 9A for Assessment Year 2022-23.

18. Rule is made absolute in the above terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

19. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.] **[B. P. COLABAWALLA, J.]**