APHC010397412025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3529]**
(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION NO: 20434/2025

Between:

1. SREE VIJAYAWADA GUJARATI SAMAJ, REP., BY ITS TRUSTEE DEEPAK MANHARLAL DESAI, S/O. LATE.MANHARLAL DESAI HAVING OFFICE AT 12-11-21, R.R.APPA RAO STREET, VIJAYAWADA.

...PETITIONER

AND

1. THE UNION OF INDIA, REP., BY ITS SECRETARY, MINISTRY OF FINANCE, NORTH BLOCK, NEW DELHI.
2. THE PRINCIPAL COMMISSIONER OF INCOME TAX EXEMPTIONS, NEW DELHI, ALSO HAVING OFFICE AT SREE SQUARE, MOGHALRAJPURAM, VIJAYAWADA.
3. THE COMMISIONER OF INCOME TAX EXEMPTION, AAYKAR BHAWAN, OPPOSITE LB STADIUM, BASHEER BAGH, HYDERABAD, TELANGANA - 500004.
4. THE DEPUTY COMMISSIONER OF INCOME TAX EXEMPTIONS, VIJAYAWADA, ANDHRA PRADESH.
5. THE ADDITIONAL COMMISSIONER OF INCOME TAX EXEMPTIONS, VIJAYAWADA, ANDHRA PRADESH.
6. THE ASSISTANT COMMISSIONER OF INCOME TAX EXEMPTION CIR, VIJAYAWADA, ANDHRA PRADESH.

7. THE ASSESSMENT UNIT, INCOME TAX DEPARTMENT, NATIONAL E-ASSESSMENT CENTER, NEW DELHI, ROOM NO. 401, 2ND FLOOR, E-RAMP, JAWAHARLAL NEHRU STADIUM, NEW DELHI - 110003.

...RESPONDENT(S):

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 tomay be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring that Order, dated 16.04.2025 in ITBA/COM/F/17/2025- 26/1075652506(1) for the assessment year 2024-2025 passed by the respondent No.3 rejecting the application for condonation of delay in filing the Form IOBB of twenty (24) days under Section 119(2)(b) of the Income Tax Act, 1961 arbitrary, illegal, contrary to the letter and spirt of Section 119(2)(b) of the Income Tax Act, 1961 and Circular No. 16/2024, dated 18.11.2024 and settled principles of law apart from being violative of the fundamental rights guaranteed to the petitioner under Article 14, 19 and 21 of the Constitution of India, and consequently set aside the same in the interest of justice and further direct the Respondents not to take any coercive measures against the Petitioner with respect to the AY 2024-25 and pass such

<u>IA NO: 1 OF 2025</u>

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

Counsel for the Petitioner:

1. B.ABHAY SIDDHANTH MOOTHA

Counsel for the Respondent(S):

1.

2. Y N VIVEKANANDA

The Court made the following Order: *(per Hon'ble Sri Justice R. Raghunandan Rao)*

The petitioner, which is said to be a Charitable Organisation, had filed its income tax returns, for the assessment year, 2024-2025, on 24.09.2024. The last date for filing the said returns was upto 10.11.2024. The petitioner having realized that the Auditor of the petitioner, had uploaded a wrong Form 10B instead of uploading Form 10BB, ensured that the proper Form 10BB and the Audit Report was uploaded, on 05.12.2024. As the last date for filing of the said returns was 10.11.2024, an application was made under Section 119(2)(b) of the Income Tax Act, 1961, for condonation of delay of 24 days.

2. This application for condonation of delay was rejected by the Commissioner of Income Tax (Exemption), by an Order, dated 16.04.2025.

3. Aggrieved by the said order of rejection, the petitioner has approached this Court, by way of the present Writ Petition.

4. The Commissioner of Income Tax (Exemption), rejected the application for condonation of delay, on the ground that, the mistake/negligence of the Chartered Accountant in filing the wrong Form, cannot be treated to be a genuine difficulty of the petitioner and holding that the reason is not sufficient and valid for condoning the delay in complying with the requirements of furnishing the statutory Forms.

5. The Hon'ble High Court of Bombay, in similar circumstances, in the case of ***Shree Jain Swetamber Murtipujak Tapagachha Sangh***

Vs. Commissioner of Income-tax (Exemptions) & another[1], the Hon'ble High Court of Gujarat at Ahmedabad, in the case of ***Sarvodaya Charitable Trust Vs. Income Tax Officer (Exemption)***[2] and the Hon'ble High Court of Bombay in the case of ***Al Jamia Mohammediyah Education Society Vs. Commissioner Of Income Tax (Exemptions) Mumbai, Union of India***[3], had held that a liberal view should be taken, in such circumstances, and that, the mistake/negligence on part of the Chartered Accountant, should not result any hardship to the taxpayer.

6. Apart from this, the fact remains that the petitioner had filed the returns, even much before the last date for filing of such returns. The negligence of the Chartered Accountant, in uploading the wrong Form, is beyond the contrary of the petitioner in as much as the same would be uploaded from the Chartered Accountant from his terminal in his office.

7. In such circumstances, a hypertechnical view of non-compliance cannot be taken by the Authorities, while considering an application made under Section 119(2)(b) of the Income Tax Act.

8. For the aforesaid reasons, the said order, dated 16.04.2025**,** is set aside and the returns filed by the petitioner shall be taken into account for all the further purposes under the Act.

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[1] (2025) 482 ITR 38 : 2024 SCC OnLine Bom 3895
[2] [2021] 278 TAXMAN 148 (Guj)
[3] [2025] 482 ITR 41 (Bom)

9. Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

R. RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

Date:10.02.2026
KPV

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THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

AND

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No.20434 of 2025

(per Hon'ble Sri Justice R. Raghunandan Rao)

10.02.2026

KPV