

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI**

**BEFORE SHRI B.R. BASKARAN, AM &
SHRI N. K. CHOUDHRY, JM**

I.T.A. No. 399/Mum/2022
Assessment Year: 2018-19)

**Disma Golden Jubilee
Charitable Trust**, 5th Floor,
Potia Industrial Estate, Boat Hard
Road, Darukhana,
Mumbai-400010.

Vs.

**Commissioner of Income
Tax (Exemption)**, 6th Floor,
Cumballa Hill, MTNL Building,
Pedder Road, Mumbai-400026.

PAN No. **AAAFD2593F**

Appellant)	:	Respondent)
Appellant/Assessee by	:	Shri Rajesh Shah, CA
Respondent/Department by	:	Smt. Mahita Nair, Sr. DR
Date of Hearing	:	13.09.2023
Date of Pronouncement	:	22.09.2023

ORDER

Per N. K. Choudhry, JM:

The Assessee/Appellant herein has preferred this appeal against the order dated 01.03.2021 impugned herein passed by Ld. Commissioner of Income Tax (Exemption), Mumbai {in short 'Ld. Commissioner'} under section 119(2)(b) of the Income Tax Act 1961 (in short 'the Act').

2. This appeal was decided by the Hon'ble Co-ordinate Bench of the Tribunal vide order dated 31.05.2022 on merit, however, later on by deciding Miscellaneous Application (MA) No. 118/Mum/2023 filed by the Revenue/Department, wherein it was claimed that the Hon'ble ITAT had no jurisdiction to adjudicate the appeal filed against the order passed under section 119(2)(b) of the Act, which is otherwise not maintainable as ousted under section 253 of the Act, the said order dated 31.05.2022 was recalled.

3. Considering the peculiar facts and circumstances of the case, as the appeal against the order under section 119(2)(b) of the Act is not maintainable before the Tribunal as per section 253 of the Act, hence, the instant appeal is liable to be dismissed.

4. However, considering the peculiar facts and circumstances of the case, as the CBDT vide its Circular No. 16/2022 dated 19.07.2022 has given liberty to the Revenue authorities to admit the application for condonation of delay under section 119(2) of the Act, where there is delay of beyond 365 days upto 3 years in filing Form No. 10B for AY 2018-19 or for any subsequent AYs, as the Assessee's case seems to be covered by Circular No. 16/2022 (supra) as claimed, hence, the liberty is granted to the Assessee to avail the appropriate remedies as per said Circular.

5. In the result, appeal filed by the Assessee stands dismissed.

Order pronounced in the open court on 22-09-2023.

Sd/-

(B.R. BASKARAN)
Accountant Member

Sd/-

(N. K. CHOUDHRY)
Judicial Member

SK, Sr.PS.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai

Sr. No.	Details	Date	Initial	Designation
1	Draft dictated on (dictation sheet enclosed with main file)	13.09.2023		Sr.PS/PS
2	Draft dictated on PC			Sr.PS/PS
3	Draft Placed before author	13.09.2023		Sr.PS/PS
4	Draft proposed & placed before the Second Member			JM/AM
5	Draft discussed/approved by Second Member			JM/AM
6	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
7	Order pronouncement on			Sr.PS/PS
8	File sent to the Bench Clerk			Sr.PS/PS
9	Date on which the file goes to the Head clerk			
10	Date on which file goes to the AR			
11	Date of Dispatch of order			