

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI**

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
and
SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No.3195/DEL/2024
(Assessment Year: 2018-19)**

Delhi Maharashtra Educational and
Cultural Society,
Ram Bagh, Walchand Palace,
Paharganj,
New Delhi – 110 055.

vs.

CIT (Exemption),
New Delhi.

(PAN : AAATD5737F)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Abhishek Jain, CA
REVENUE BY : Shri Surender Pal, CIT DR

Date of Hearing : 19.11.2024
Date of Order : 23.12.2024

ORDER

PER S.RIFAUR RAHMAN,AM:

1. This appeal is filed by the assessee against the order of Id. Commissioner of Income-tax (Exemption), Delhi (hereinafter referred to 'Ld. CIT (E)') dated 14.06.2024 for Assessment Year 2018-19.
2. At the outset, Id. AR for the assessee submitted that the Id. CIT (E) rejected the petition/application filed for condonation of delay u/s 119(2)(b) of the Income-tax Act, 1961 (for short 'the Act') in filing of Form 10B for the AY 2018-19. He submitted that there was only a delay

of 16 days in filing the Form 10B. He further submitted that as per the direction of the Bench, the reasons for the delay in filing Form 10B are submitted in the form of Affidavit of the assessee society. The said affidavit signed by Shri Vilas Rao Kantute in the capacity of the Principal Officer/General Secretary of assessee is placed on record and for the sake of clarity, the contents of the same are reproduced below :-

“1. That My Name is Vilas Ganpat Rao Kantute and my PAN is AHLPK1262G;

2. That I hereby confirm that the society is running a Government Aided School in the name of Nutan Maratha School in Paharganj, Delhi wherein 95% of the school expenses are borne by Department of Education;

3. That I hereby confirm that for the FY 2017 - 18, all the required data for audit of financials of society was provided to the auditor i.e. CA Sunanda Parvatikar in timely manner accordingly, the audit was completed vide audit report dated 30th Sep 2018 i.e. one month before due date of filing return of income and Form 10B;

4. That I hereby confirm that the auditor was also engaged for filing Income Tax Return on behalf of Society and filing and approving form 10B, accordingly the digital signature of authorized signatory i.e. Vijay V kale (treasurer) was available in auditor's office only;

5. That I hereby confirm that the Income Tax return was duly filed in time i.e. dated 31st Oct 2018 wherein the particulars of Audit on 30th Sep 2018 was duly mentioned;

6. That I hereby confirm that for the purpose of extraction copy of Income-tax Return and Form 10B for office records, accountant of the society login on income Tax portal on 15th November 2018 wherein he has found that Form 10B was not filed by the auditor but return of income was duly filed in time;

7. That I hereby confirm that the matter was immediately taken up with the auditor wherein they confirmed that due to error of omission this form was missed to be filed and have immediately on 16th Nov 2018 filed Form 10B on Income Tax Portal i.e. with a delay of 16 days;

8. That I hereby confirm that there was no mensrea on part of the society for delay in filing of form 10B nor was any purpose of the same. Also,

society has duly provided all the requisite information / details / documents / assistance to the auditor for enabling them making the due compliance in timely manner;

9. That I hereby confirm that the Form 108 has been filed without receipt of any intimation / notice / information from Income Tax Department with bona-fide intention and in order to make proper compliance.”

3. Ld. AR for the assessee further contended that vide circular No.2/2020 dated 03.01.2020, CBDT in exercise of the powers conferred under section 119(2)(b) of the Act, authorised the Commissioners to admit the belated applications of condonation of delay of 365 days for the assessment years 2018-19 or for any subsequent assessment years and to decide the same on merits. Further, ld. AR for the assessee, after relying on various case laws submitted in case law compilation, requested that the delay of 16 days may be condoned in view of the peculiar facts and circumstances of the case as explained in the affidavit.
4. On the other hand, ld. DR for the Revenue did not object any serious objection of condoning the delay.
5. Considered the submissions of both the parties and material placed on record. Admittedly in this matter, the return of income was filed on 31.10.2018, Form 10B was filed on 16.11.2018 and we observed that the time for filing the Form 10B was extended for this assessment year to 31.10.2018 vide CBDT Circular dated 08.10.2018. Further we observed that the assessee has filed the Audit Report (Form 10B) dated 31.10.2018

in the paper book. It clearly shows that the Form 10B was available with the assessee while filing the return of income. However, it was actually filed only on 16.11.2018 with a delay of 16 days in the IT Portal. This is only a procedural lapse and cannot penalize the assessee overlooking the charitable works carried on by the assessee. We, therefore, respectfully relying on various case law submitted in case law compilation and our observation above, we condone the delay of 16 days and deem it just and proper to direct the Id. Assessing Officer to consider Form 10B available on record at the time of processing the return of income. Id. Assessing Officer is, therefore, directed to consider Form 10B available on record and to pass appropriate orders.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 23rd day of December, 2024.

Sd/-
(VIAKAS AWASTHY)
JUDICIAL MEMBER

sd/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated:23.12.2024

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(E), Delhi.
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI