



2024:KER:59378

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 6TH DAY OF AUGUST 2024 / 15TH SRAVANA, 1946

WP(C) NO. 17059 OF 2024

PETITIONER:

MARY QUEENS MISSION HOSPITAL,
PALAMPARA P.O., KANJIRAPILLY, KOTTAYAM,
REPRESENTED BY ITS DIRECTOR, SANTHOSH SYRIAC,
PIN - 686 518.

BY ADVS.

ABRAHAM JOSEPH MARKOS (Sr)
ISAAC THOMAS
V.ABRAHAM MARKOS
AIBEL MATHEW SIBY
SHARAD JOSEPH KODANTHARA

RESPONDENTS:

- 1 THE COMMISSIONER OF INCOME TAX (EXEMPTION),
AYAKAR BHAVAN, OLD RAILWAY STATION ROAD, KOCHI,
PIN - 682 018.
- 2 THE ASSISTANT COMMISSIONER OF INCOME TAX
(EXEMPTION),
INCOME TAX OFFICE, KOTTAYAM, PIN - 686 001.
- 3 THE CENTRAL BOARD OF DIRECT TAXES,
GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
NORTH BLOCK, SECRETARIAT BUILDING, NEW DELHI,
REPRESENTED BY ITS DIRECTOR, PIN - 110 001.

BY ADVS

SRI. JOSE JOSEPH (Sr.SC-IT DEPT)
SRI. CYRIAC TOM (Jr.SC - IT DEPT)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06.08.2024, ALONG WITH WP(C).10488/2024, 10505/2024 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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WP(C) 17059/2024 and Conn.Cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 6TH DAY OF AUGUST 2024 / 15TH SRAVANA, 1946

WP(C) NO. 10488 OF 2024

PETITIONER:

ST. JOSEPH'S PROVINCE OF THE MEDICAL SISTERS OF
ST. JOSEPH,
AGED 52 YEARS
ST. JOSEPH'S PROVINCIAL HOUSE, DHARMAGIRI,
KOTHAMANGALAM P.O., PAN -AACT50805R
REPRESENTED BY ITS CHIEF FUNCTIONARY ELIZABETH
JOSEPH, PIN - 686 691.

BY ADVS.

ABRAHAM JOSEPH MARKOS(Sr)
V.ABRAHAM MARKOS
ISAAC THOMAS
P.G.CHANDAPILLAI ABRAHAM
ALEXANDER JOSEPH MARKOS
SHARAD JOSEPH KODANTHARA
JOHN VITHAYATHIL
AIBEL MATHEW SIBY

RESPONDENTS:

- 1 THE COMMISSIONER OF INCOME TAX (EXEMPTION),
AYAKAR BHAVAN, OLD RAILWAY STATION ROAD, KOCHI,
PIN - 682 018.
- 2 THE ASSISTANT COMMISSIONER OF INCOME TAX
(EXEMPTION),
INCOME TAX OFFICE, KOCHI, PIN - 682 018.



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WP(C) 17059/2024 and Conn.Cases

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**3 THE CENTRAL BOARD OF DIRECT TAXES,
GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
NORTH BLOCK, SECRETARIAT BUILDING, NEW DELHI,
PIN - 110 001.**

BY ADVS

**SRI. JOSE JOSEPH (Sr.SC-IT DEPT)
SRI. CYRIAC TOM (Jr.SC - IT DEPT)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06.08.2024, ALONG WITH WP(C).17059/2024 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



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WP(C) 17059/2024 and Conn.Cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 6TH DAY OF AUGUST 2024 / 15TH SRAVANA, 1946

WP(C) NO. 10505 OF 2024

PETITIONER:

SAN JOE HOSPITAL,
AGED 51 YEARS
PERUMBAVOOR, PAN -AAHFS9533M, REPRESENTED BY ITS
ADMINISTRATOR SR. LINCE MARIA, PIN - 683 542.

BY ADVS.

ABRAHAM JOSEPH MARKOS (Sr)
V.ABRAHAM MARKOS
ISAAC THOMAS
P.G.CHANDAPILLAI ABRAHAM
ALEXANDER JOSEPH MARKOS
SHARAD JOSEPH KODANTHARA
JOHN VITHAYATHIL
AIBEL MATHEW SIBY

RESPONDENTS:

- 1 THE COMMISSIONER OF INCOME TAX (EXEMPTION),
AYAKAR BHAVAN, OLD RAILWAY STATION ROAD, KOCHI, PIN -
682 018.
- 2 THE ASSISTANT COMMISSIONER OF INCOME TAX (EXEMPTION),
INCOME TAX OFFICE, KOCHI,
PIN - 682 018.
- 3 THE CENTRAL BOARD OF DIRECT TAXES,
GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
NORTH BLOCK, SECRETARIAT BUILDING, NEW DELHI,
PIN - 110 001.

BY ADVS

SRI. JOSE JOSEPH (Sr.SC-IT DEPT)
SRI. CYRIAC TOM (Jr.SC - IT DEPT)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06.08.2024, ALONG WITH WP(C).17059/2024 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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WP(C) 17059/2024 and Conn.Cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 6TH DAY OF AUGUST 2024 / 15TH SRAVANA, 1946

WP(C) NO. 10543 OF 2024

PETITIONER:

ALPHONSA JYOTHI PROVINCE,
AGED 58 YEARS
F.C. PROVINCIAL HOUSE, ARUVITHURA, PALA,
PAN -AAAAA7212P, REPRESENTED BY ITS PROVINCIAL
SUPERIOR JESSY EMMANUEL, PIN - 686 122.

BY ADVS.

ABRAHAM JOSEPH MARKOS (Sr)
V.ABRAHAM MARKOS
ISAAC THOMAS
P.G.CHANDAPILLAI ABRAHAM
ALEXANDER JOSEPH MARKOS
SHARAD JOSEPH KODANTHARA
JOHN VITHAYATHIL
AIBEL MATHEW SIBY

RESPONDENTS:

- 1 INCOME TAX DEPARTMENT,
AYAKAR BHAVAN, OLD RAILWAY STATION ROAD, KOCHI,
PIN - 682 018.
- 2 THE ASSISTANT COMMISSIONER OF INCOME TAX (EXEMPTION),
INCOME TAX OFFICE, KOTTAYAM, PIN - 686 001.
- 3 THE CENTRAL BOARD OF DIRECT TAXES,
GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
NORTH BLOCK, SECRETARIAT BUILDING NEW DELHI,
PIN - 110 001.

BY ADVS

SRI. JOSE JOSEPH (Sr.SC-IT DEPT)
SRI. CYRIAC TOM (Jr.SC - IT DEPT)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06.08.2024, ALONG WITH WP(C).17059/2024 AND CONNECTED CASES, THE
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WP(C) 17059/2024 and Conn.Cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 6TH DAY OF AUGUST 2024 / 15TH SRAVANA, 1946

WP(C) NO. 15733 OF 2024

PETITIONER:

MAR IVANIOS SCHOOL TRUST,
AGED 36 YEARS
MAR IVANIOS SCHOOL BETHANY, KALAYAPURAM, KOTTARAKARA,
KOLLAM, KERALA REPRESENTED BY ITS ADMINISTRATOR DENNY
MATHEW, PIN - 691 560.

BY ADVS.

ABRAHAM JOSEPH MARKOS (Sr)
V.ABRAHAM MARKOS
ISAAC THOMAS
P.G.CHANDAPILLAI ABRAHAM
SHARAD JOSEPH KODANTHARA
ALEXANDER JOSEPH MARKOS
AIBEL MATHEW SIBY
JOHN VITHAYATHIL

RESPONDENTS:

- 1 THE COMMISSIONER OF INCOME TAX (EXEMPTION),
AYAKAR BHAVAN, OLD RAILWAY STATION ROAD, KOCHI,
PIN - 682 018.
- 2 THE ASSISTANT COMMISSIONER OF INCOME TAX (EXEMPTION),
INCOME TAX OFFICE, KOCHI, PIN - 682 018.
- 3 THE CENTRAL BOARD OF DIRECT TAXES,
GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
NORTH BLOCK, SECRETARIAT BUILDING NEW DELHI,
PIN - 110 001.

BY ADVS

SRI. JOSE JOSEPH (Sr.SC-IT DEPT)
SRI. CYRIAC TOM (Jr.SC - IT DEPT)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06.08.2024, ALONG WITH WP(C).17059/2024 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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WP(C) 17059/2024 and Conn.Cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 6TH DAY OF AUGUST 2024 / 15TH SRAVANA, 1946

WP(C) NO. 15982 OF 2024

PETITIONER:

HOLY QUEENS PROVINCE OF THE MOTHER OF CARMEL,
HOLY QUEENS PROVINCIAL HOUSE, IV/392, CHANGANACHERRY,
KOTTAYAM, REPRESENTED BY ITS PROVINCIAL SUPERIOR
ANNIE PRASANNA, PIN - 686 101.

BY ADVS.

ABRAHAM JOSEPH MARKOS (Sr)
V.ABRAHAM MARKOS
ISAAC THOMAS
P.G.CHANDAPILLAI ABRAHAM
ALEXANDER JOSEPH MARKOS
SHARAD JOSEPH KODANTHARA
JOHN VITHAYATHIL
AIBEL MATHEW SIBY

RESPONDENTS:

- 1 THE COMMISSIONER OF INCOME TAX (EXEMPTION),
AYAKAR BHAVAN, OLD RAILWAY STATION ROAD, KOCHI,
PIN - 682 018.
- 2 THE ASSISTANT COMMISSIONER OF INCOME TAX (EXEMPTION),
INCOME TAX OFFICE, KOCHI, PIN - 682 018.
- 3 THE CENTRAL BOARD OF DIRECT TAXES,
GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
NORTH BLOCK, SECRETARIAT BUILDING, NEW DELHI,
PIN - 110 001.

BY ADVS

SRI. JOSE JOSEPH (Sr.SC-IT DEPT)
SRI. CYRIAC TOM (Jr.SC - IT DEPT)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06.08.2024, ALONG WITH WP(C).17059/2024 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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WP(C) 17059/2024 and Conn.Cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 6TH DAY OF AUGUST 2024 / 15TH SRAVANA, 1946

WP(C) NO. 15987 OF 2024

PETITIONER:

HRUDHAYARAM KANNUR,
PSYCHOLOGICAL TRAINING CENTRE, TALAP P.O., KANNUR,
KERALA, REPRESENTED BY ITS AUTHORISED SIGNATORY
LALY AUGUSTINE, PIN - 670 002.

BY ADVS.

ABRAHAM JOSEPH MARKOS (Sr)
V.ABRAHAM MARKOS
ISAAC THOMAS
P.G.CHANDAPILLAI ABRAHAM
ALEXANDER JOSEPH MARKOS
SHARAD JOSEPH KODANTHARA
JOHN VITHAYATHIL
AIBEL MATHEW SIBY

RESPONDENTS:

- 1 THE COMMISSIONER OF INCOME TAX (EXEMPTION)
AYAKAR BHAVAN, OLD RAILWAY STATION ROAD, KOCHI,
PIN - 682 018.
- 2 THE ASSISTANT COMMISSIONER OF INCOME TAX (EXEMPTION),
INCOME TAX OFFICE, KOCHI, PIN - 682 018.
- 3 THE CENTRAL BOARD OF DIRECT TAXES,
GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
NORTH BLOCK, SECRETARIAT BUILDING NEW DELHI
REPRESENTED BY ITS CHAIRMAN, PIN - 110 001.

BY ADVS

SRI. JOSE JOSEPH (Sr.SC-IT DEPT)
SRI. CYRIAC TOM (Jr.SC - IT DEPT)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06.08.2024, ALONG WITH WP(C).17059/2024 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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WP(C) 17059/2024 and Conn.Cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 6TH DAY OF AUGUST 2024 / 15TH SRAVANA, 1946

WP(C) NO. 15999 OF 2024

PETITIONER:

ST. KURIAKOSE PUBLIC SCHOOL SOCIETY,
PAZHUTHURUTHY , THIRUVAMPADY, KOTTAYAM,
PAN -AAXAS9585Q, REPRESENTED BY ITS SECRETARY
AJEESH JOSE, PIN - 686 612.

BY ADVS.

ABRAHAM JOSEPH MARKOS (Sr)
V.ABRAHAM MARKOS
ISAAC THOMAS
P.G.CHANDAPILLAI ABRAHAM
ALEXANDER JOSEPH MARKOS
SHARAD JOSEPH KODANTHARA
JOHN VITHAYATHIL
AIBEL MATHEW SIBY

RESPONDENTS:

- 1 THE COMMISSIONER OF INCOME TAX (EXEMPTION),
AYAKAR BHAVAN, OLD RAILWAY STATION ROAD, KOCHI,
PIN - 682 018.
- 2 THE ASSISTANT COMMISSIONER OF INCOME TAX (EXEMPTION),
INCOME TAX OFFICE, KOTTAYAM, PIN - 686 001.
- 3 THE CENTRAL BOARD OF TAXES,
GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
NORTH BLOCK, SECRETARIAT BUILDING NEW DELHI,
PIN - 110 001.

BY ADVS

SRI. JOSE JOSEPH (Sr.SC-IT DEPT)
SRI. CYRIAC TOM (Jr.SC - IT DEPT)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06.08.2024, ALONG WITH WP(C).17059/2024 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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WP(C) 17059/2024 and Conn.Cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 6TH DAY OF AUGUST 2024 / 15TH SRAVANA, 1946

WP(C) NO. 16042 OF 2024

PETITIONER:

**MALABAR PROVINCE,
CMI PROVINCIAL HOUSE, AMALAPUR, KOZHIKODE, KERALA,
REPRESENTED BY ITS PROVINCIAL BIJU JOHN,
PIN - 673 001.**

BY ADVS.

**ABRAHAM JOSEPH MARKOS (Sr)
V.ABRAHAM MARKOS
ISAAC THOMAS
P.G.CHANDAPILLAI ABRAHAM
JOHN VITHAYATHIL
AIBEL MATHEW SIBY**

RESPONDENTS:

- 1 THE COMMISSIONER OF INCOME TAX (EXEMPTION),
AYAKARBHAVAN, OLD RAILWAY STATION ROAD, KOCHI,
PIN - 682 018.**
- 2 THE ASSISTANT COMMISSIONER OF INCOME TAX (EXEMPTION),
INCOME TAX OFFICE, KOCHI, PIN - 682 018.**
- 3 THE CENTRAL BOARD OF DIRECT TAXES,
GOVERNMENT OF INDIA, MINISTRY OF FINANCE,
NORTH BLOCK, SECRETARIAT BUILDING, NEW DELHI,
REPRESENTED BY ITS DIRECTOR, PIN - 110 001.**

BY ADVS

**SRI. JOSE JOSEPH (Sr.SC-IT DEPT)
SRI. CYRIAC TOM (Jr.SC - IT DEPT)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06.08.2024, ALONG WITH WP(C).17059/2024 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



JUDGMENT

**[WP(C) Nos.17059, 10488, 10505, 10543, 15733, 15982,
15987, 15999 and 16042 of 2024]**

The issue arising for consideration in these cases is common and these writ petitions can therefore be conveniently disposed of by a common judgment.

2. The petitioners in these cases are entities registered under Section 12A of the Income Tax Act, 1961 (hereinafter referred to as the '1961 Act'). For the assessment year 2022-2023, the petitioners were required to file their return of income by 31-10-2022 and therefore the audit report in Form-10B had to be filed on or before 30-09-2022. The due date for filing return of income for the assessment year 2022-2023 was extended by the Central Board of Direct Taxes for a period of seven (07) days, as a result of which, the last date for filing return for that year became 07-11-2022 and consequently, the last date for filing audit report in Form-10B was 07-10-2022.



The petitioners did not file any audit report in Form-10B within the specified time. However they filed it on or before the date of filing of the return for the assessment year 2022-2023, which was, as already indicated, 07-11-2022. The petitioners, therefore, filed separate applications before the Commissioner of Income Tax (Exemption) (hereinafter referred to as the 'Commissioner') under Section 119(2)(b) of the 1961 Act praying that the delay in filing the audit report in Form-10B be extended. The Commissioner vide the order marked as Ext.P8 (in all these writ petitions) has rejected the applications for condonation of delay.

3. The learned Senior Counsel appearing for the petitioners would submit that the Commissioner has considered the applications for condonation of delay in a highly mechanical manner. It is submitted that considering the facts and circumstances of these cases and also considering the fact that the delay was 30 days or less in each of these cases, the Commissioner ought not to have



taken such a strict view and ought to have condoned the delay in filing the audit report, especially taking into consideration the fact that the income tax returns were filed within the due date.

4. Sri. Jose Joseph, the learned Standing Counsel appearing for the Income Tax Department would submit that the reasons mentioned by the petitioners for the delay in filing the audit report are not at all acceptable in the facts and circumstances of these cases. It is submitted that the petitioners contend that they were unable to uphold the audit report on account of certain technical glitches, which cannot be correct, as the audit report itself was prepared much later than the date on which such glitches are reported. It is submitted that the filing of the audit report was mandatory and the Commissioner has considered the contentions taken before him as grounds to condone the delay and has come to the conclusion that there was no reason to exercise the jurisdiction under Section 119(2)(b) of the 1961 Act to condone the delay in



filing the audit report.

5. The learned Senior Counsel appearing for the petitioners, in reply, would refer to the judgment of the Division Bench of the Bombay High Court in ***Al Jamia Mohammediyah Education Society v. Commissioner of Income Tax (Exemptions) and Another***; 2024 SCC OnLine Bom 1157, to contend that the applications for condonation of delay should have been considered without being too hyper technical and in a judicious manner.

6. Having heard the learned Senior Counsel appearing for the petitioners and the learned Senior Standing Counsel appearing for the Income Tax Department, I am of the view that the petitioners are entitled to succeed. As rightly pointed out by the learned Senior Counsel for the petitioners, the delay in filing the audit report in Form-10B can at best be 30 days, as the law only requires that the audit report be uploaded at least a month before the due date for filing returns. Considering the extent of the delay, it should have been appropriate



that the Commissioner exercised his jurisdiction under Section 119(2)(b) of the 1961 Act to condone the delay instead of taking a strict view of the matter. The Division Bench of the Bombay High Court in ***Al Jamia Mohammediyah Education Society (Supra)*** held as follows:

*“6. Admittedly, Petitioner is a charitable trust. Admittedly, Petitioner has been filing its returns and Form 10B for AY 2015-16, for AY 2017-18 to AY 2021-22 within the due dates. On this ground alone, in our view, delay condonation application should have been allowed because the failure to file returns for AY 2016-17 could be only due to human error. Even in the impugned order, there is no allegation of malafide. As held by the Gujarat High Court in **Sarvodaya Charitable Trust v. Income Tax Officer (Exemption)**; (2021) 125 taxmann.com 75 (Gujarat), the approach in the cases of the present type should be equitable, balancing and judicious. Technically, strictly and liberally speaking, Respondent No.1 might be justified in denying the exemption by rejecting such condonation application, but an assessee, a public charitable trust with almost over thirty years, which otherwise satisfies the condition for availing such exemption, should not be denied the same merely on the bar of limitation especially when the legislature*



has conferred wide discretionary powers to condone such delay on the authorities concerned. Paragraphs 30 and 31 of Sarvodaya Charitable [Trust \(Supra\)](#) reads as under:

"30. We may also refer to and rely upon a decision of the Delhi High Court in the case of G.V. Infosutions (P) Ltd. v. Dy: CIT [2019] 102 taxmann.com 397/261 Taxman 482. We may quote the relevant observations thus:

"8. The rejection of the petitioner's application under section 119(2)(b) is only on the ground that according to the Chief Commissioner's opinion the plea of omission by the auditor was not substantiated. This court has difficulty to understand what more plea or proof any assessee could have brought on record, to substantiate the inadvertence of its advisor. The net result of the impugned order is in effect that the petitioner's claim of inadvertent mistake is sought to be characterised as not bona fide. The court is of the opinion that an assessee has to take leave of its senses if it deliberately wishes to forego a substantial amount as the assessee is ascribed to have in the circumstances of this case. "Bona fide" is to be understood in the context of the circumstance of any case. Beyond a plea of the sort the petitioner raises (concededly belatedly), there can not necessarily be independent proof or material to establish that the auditor in fact acted without diligence. The petitioner did not urge any other



grounds such as illness of someone etc., which could reasonably have been substantiated by independent material. In the circumstances of the case, the petitioner, in our opinion, was able to show bona fide reasons why the refund claim could not be made in time.

9. The statute or period of limitation prescribed in provisions of law meant to attach finality, and in that sense are statutes of repose; however, wherever the legislature intends relief against hardship in cases where such statutes lead to hardships, the concerned authorities-including Revenue Authorities have to construe them in a reasonable manner. That was the effect and purport of this court's decision in Indglonal Investment & Finance Ltd.(supra). This court is of the opinion that a similar approach is to be adopted in the circumstances of the case."

31. Having given our due consideration to all the relevant aspects of the matter, we are of the view that the approach in the cases of the present type should be equitable, balancing and judicious. Technically, strictly and liberally speaking, the respondent no. 2 might be justified in denying the exemption under section 12 of the Act by rejecting such condonation application, but an assessee, a public charitable trust past 30 years who substantially satisfies the condition for availing such exemption, should not be denied the same merely on the bar of limitation especially when the legislature has conferred



wide discretionary powers to condone such delay on the authorities concerned."

7. Moreover, in our opinion, Petitioner does not appear to have been lethargic or lacking in bonafides in making the claim beyond the period of limitation which should have a relevance to the desirability and expedience for exercising such power. We are conscious that such routine exercise of powers would neither be expedient nor desirable, since the entire machinery of tax calculation, processing of assessment and further recoveries or refunds, would get thrown out of gear, if such powers are routinely exercised without considering its desirability and expedience to do so to avoid genuine hardship.

*8. In a similar matter in **Shree Jain Swetamber Murtipujak Tapagachha Sangh v. Commissioner of Income Tax (Exemptions) and Anr** (Writ Petition (L) No.1321 of 2024 decided on 27.3.2024) was also a case where auditor had due to oversight not filed Form 10B. The Court held that the error on the part of auditor cannot be rejected but should be accepted as a reasonable cause shown by the trust management. In that case also, Petitioner did not suo moto realize its mistake and filed a condonation request only after Centralised Processing Centre ("CPC") sent an intimation about non- filing of Form 10B.*

9. Having considered the matter in its entirety, we are satisfied that the delay was not intentional or



deliberate. Petitioner cannot be prejudiced on account of an ignorance or error committed by professional engaged by Petitioner. In our view, Respondent No.1 ought to have exercised the powers conferred”.

I am in respectful agreement with the view taken by the Bombay High Court in ***Al Jamia Mohammediyah Education Society (Supra)***.

7. Therefore, these writ petitions are allowed by quashing the orders (Ext.P8 in all cases) issued by the Commissioner of Income Tax (Exemptions), Kochi, dismissing the applications filed by the petitioners under Section 119(2)(b) of the 1961 Act. As a result of this order, the delay on the part of the petitioners in filing the audit report in Form-10B for the assessment year 2022-2023 will stand condoned.

Writ petitions are ordered accordingly.

**Sd/-
GOPINATH P.
JUDGE**



APPENDIX OF WP(C) 17059/2024

PETITIONER'S EXHIBITS

Exhibit P1 TRUE COPY OF CIRCULAR NO.19/2022 DATED 30.09.2022 ISSUED BY THE 3RD RESPONDENT.

Exhibit P2 TRUE COPY OF ACKNOWLEDGEMENT AND AUDIT REPORT IN FORM 10B DATED 07.11.2022 FILED BY THE PETITIONER.

Exhibit P3 TRUE COPY OF INCOME TAX RETURNACKNOWLEDGEMENT DATED 07.11.2022 ALONG WITH COMPUTATION OF INCOME TAX FOR AY 2022-23.

Exhibit P4 TRUE COPY OF CIRCULAR NO.2/2020 DATED 03.01.2020 ISSUED BY THE 3RD RESPONDENT.

Exhibit P5 TRUE COPY OF CIRCULAR NO.16/2022 DATED 19.07.2022 ISSUED BY THE 3RD RESPONDENT.

Exhibit P6 TRUE COPY OF APPLICATION FOR CONDONATION OF DELAY IN FILING FORM 10B DATED 04.07.2023 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P7 TRUE COPY OF WRITTEN SUBMISSIONS DATED 09.02.2024 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P8 TRUE COPY OF IMPUGNED ORDER DATED 19.02.2024 OF THE 1ST RESPONDENT.



WP(C) 17059/2024 and Conn.Cases

APPENDIX OF WP(C) 10488/2024

PETITIONER'S EXHIBITS

- Exhibit P1 TRUE COPY OF THE CIRCULAR NO.19/2022 DATED 30.09.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P2 TRUE COPY OF ACKNOWLEDGEMENT AND AUDIT REPORT IN FORM 10B DATED 02.11.2022 FILED BY THE PETITIONER.
- Exhibit P3 TRUE COPY OF ACKNOWLEDGEMENT OF INCOME TAX RETURN DATED 02.11.2022 ALONG WITH COMPUTATION OF INCOME TAX FOR AY 2022-23.
- Exhibit P4 TRUE COPY OF THE CIRCULAR NO.2/2020 DATED 03.01.2020 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P5 TRUE COPY OF THE CIRCULAR NO.16/2022 DATED 19.07.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P6 TRUE COPY OF THE APPLICATION FOR CONDONATION OF DELAY IN FILING FORM 10B DATED 20.07.2023 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P7 TRUE COPY OF THE WRITTEN SUBMISSIONS DATED 18.01.2024 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P8 TRUE COPY OF THE IMPUGNED ORDER DATED 01.02.2024 OF THE 1ST RESPONDENT.



WP(C) 17059/2024 and Conn.Cases

APPENDIX OF WP(C) 10505/2024

PETITIONER'S EXHIBITS

- Exhibit P1 TRUE COPY OF THE CIRCULAR NO.19/2022 DATED 30.09.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P2 TRUE COPY OF THE ACKNOWLEDGEMENT AND AUDIT REPORT IN FORM 10B DATED 06.11.2022 FILED BY THE PETITIONER.
- Exhibit P3 TRUE COPY OF THE ACKNOWLEDGEMENT OF INCOME TAX RETURN DATED 07.11.2022 WITH COMPUTATION OF INCOME FOR AY 2022-23.
- Exhibit P4 TRUE COPY OF THE CIRCULAR NO.2/2020 DATED 03.01.2020 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P5 TRUE COPY OF THE CIRCULAR NO.16/2022 DATED 19.07.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P6 TRUE COPY OF THE APPLICATION FOR CONDONATION OF DELAY IN FILING FORM 10B DATED 25.09.2023 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P7 TRUE COPY OF THE WRITTEN SUBMISSIONS DATED 14.02.2024 FILED BY THE PETITIONER.
- Exhibit P8 TRUE COPY OF THE IMPUGNED ORDER DATED 22.02.2024 OF THE 1ST RESPONDENT.



WP(C) 17059/2024 and Conn.Cases

APPENDIX OF WP(C) 10543/2024

PETITIONER'S EXHIBITS

- Exhibit P1** TRUE COPY OF THE CIRCULAR NO.19/2022 DATED 30.09.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P2** TRUE COPY OF ACKNOWLEDGEMENT AND AUDIT REPORT IN FORM 10B FILED BY THE PETITIONER.
- ExhibitP3** TRUE COPY OF THE AKCNLOWEDGEMENT OF INCOME TAX RETURN ALONG WITH COMPUTATION OF INCOME FOR AY 2022-23.
- Exhibit P4** TRUE COPY OF THE CIRCULAR NO.2/2020 DATED 03.01.2020 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P5** TRUE COPY OF THE CIRCULAR NO.16/2022 DATED 19.07.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P6** TRUE COPY OF THE APPLICATION FOR CONDONATION OF DELAY IN FILING FORM 10B DATED 04.09.2023 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P7** TRUE COPY OF THE WRITTEN SUBMISSIONS DATED 16.01.2024 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P8** TRUE COPY OF THE IMPUGNED ORDER DATED 01.02.2024 OF THE 1ST RESPONDENT.



WP(C) 17059/2024 and Conn.Cases

APPENDIX OF WP(C) 15733/2024

PETITIONER'S EXHIBITS

- Exhibit P1 TRUE COPY OF CIRCULAR NO.19/2022 DATED 30.09.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P2 TRUE COPY OF ACKNOWLEDGEMENT AND AUDIT REPORT IN FORM 10B DATED 07.11.2022 FILED BY THE PETITIONER.
- Exhibit P3 TRUE COPY OF INCOME TAX RETURN ACKNOWLEDGEMENT DATED 07.11.2022 ALONG WITH COMPUTATION OF INCOME TAX FOR AY 2022-23.
- Exhibit P4 TRUE COPY OF CIRCULAR NO.2/2020 DATED 03.01.2020 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P5 TRUE COPY OF CIRCULAR NO.16/2022 DATED 19.07.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P6 TRUE COPY OF APPLICATION FOR CONDONATION OF DELAY IN FILING FORM 10B DATED 11.07.2023 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P7 TRUE COPY OF WRITTEN SUBMISSIONS DATED 10.02.2024 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P8 TRUE COPY OF IMPUGNED ORDER DATED 27.02.2024 OF THE 1ST RESPONDENT.



WP(C) 17059/2024 and Conn.Cases

APPENDIX OF WP(C) 15982/2024

PETITIONER'S EXHIBITS

- Exhibit P1 TRUE COPY OF CIRCULAR NO.19/2022 DATED 30.09.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P2 TRUE COPY OF ACKNOWLEDGEMENT AND AUDIT REPORT IN FORM 10B DATED 07.11.2022 FILED BY THE PETITIONER.
- Exhibit P3 TRUE COPY OF INCOME TAX RETURN ACKNOWLEDGEMENT DATED 07.11.2022 ALONG WITH COMPUTATION OF INCOME TAX FOR AY 2022-23.
- Exhibit P4 TRUE COPY OF CIRCULAR NO.2/2020 DATED 03.01.2020 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P5 TRUE COPY OF CIRCULAR NO.16/2022 DATED 19.07.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P6 TRUE COPY OF APPLICATION FOR CONDONATION OF DELAY IN FILING FORM 10B DATED 12.10.2023 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P7 TRUE COPY OF WRITTEN SUBMISSIONS DATED 14.02.2024 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P8 TRUE COPY OF IMPUGNED ORDER DATED 22.02.2024 OF THE 1ST RESPONDENT.
- Exhibit P9 TRUE COPY OF ORDER DATED 15.03.2024 IN WP(C)10543 OF 2024.



WP(C) 17059/2024 and Conn.Cases

APPENDIX OF WP(C) 15987/2024

PETITIONER'S EXHIBITS

Exhibit P1 TRUE COPY OF CIRCULAR NO.19/2022 DATED 30.09.2022 ISSUED BY THE 3RD RESPONDENT.

Exhibit P2 TRUE COPY OF ACKNOWLEDGEMENT AND AUDIT REPORT IN FORM 10B DATED 11.11.2022 FILED BY THE PETITIONER.

Exhibit P3 TRUE COPY OF INCOME TAX RETURN ACKNOWLEDGEMENT DATED 07.11.2022 ALONG WITH COMPUTATION OF INCOME TAX FOR AY 2022-23.

Exhibit P4 TRUE COPY OF CIRCULAR NO.2/2020 DATED 03.01.2020 ISSUED BY THE 3RD RESPONDENT.

Exhibit P5 TRUE COPY OF CIRCULAR NO.16/2022 DATED 19.07.2022 ISSUED BY THE 3RD RESPONDENT.

Exhibit P6 TRUE COPY OF APPLICATION FOR CONDONATION OF DELAY IN FILING FORM 10B DATED 05.10.2023 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P7 TRUE COPY OF WRITTEN SUBMISSIONS DATED 14.02.2024 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

Exhibit P8 TRUE COPY OF IMPUGNED ORDER DATED 22.02.2024 OF THE 1ST RESPONDENT.



WP(C) 17059/2024 and Conn.Cases

APPENDIX OF WP(C) 15999/2024

PETITIONER'S EXHIBITS

- Exhibit P1** TRUE COPY OF THE CIRCULAR NO.19/2022 DATED 11.01.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P2** TRUE COPY OF THE ACKNOWLEDGEMENT AND AUDIT REPORT IN FORM 10B DATED 06.11.2022 FILED BY THE PETITIONER.
- Exhibit P3** TRUE COPY OF THE ACKNOWLEDGEMENT OF INCOME TAX RETURN DATED 07.11.2022 ALONG WITH COMPUTATION OF INCOME TAX FOR AY 2022-23.
- Exhibit P4** TRUE COPY OF THE CIRCULAR NO.2/2020 DATED 03.01.2020 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P5** TRUE COPY OF THE CIRCULAR NO.16/2022 DATED 19.07.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P6** TRUE COPY OF THE APPLICATION FOR CONDONATION OF DELAY IN FILING FORM 10B DATED 26.06.2023 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P7** TRUE COPY OF THE WRITTEN SUBMISSIONS DATED 16.01.2024 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P8** TRUE COPY OF THE IMPUGNED ORDER DATED 31.01.2024 OF THE 1ST RESPONDENT.



WP(C) 17059/2024 and Conn.Cases

APPENDIX OF WP(C) 16042/2024

PETITIONER'S EXHIBITS

- Exhibit P1 TRUE COPY OF CIRCULAR NO.19/2022 DATED 30.09.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P2 TRUE COPY OF ACKNOWLEDGEMENT AND AUDIT REPORT IN FORM 10B DATED 27.10.2022 FILED BY THE PETITIONER.
- Exhibit P3 TRUE COPY OF INCOME TAX RETURN ACKNOWLEDGEMENT DATED 02.11.2022 ALONG WITH COMPUTATION OF INCOME TAX FOR AY 2022-23 TRUE COPY OF INCOME TAX RETURN ACKNOWLEDGEMENT DATED 02.11.2022 ALONG WITH COMPUTATION OF INCOME TAX FOR AY 2022-23.
- Exhibit P4 TRUE COPY OF CIRCULAR NO.2/2020 DATED 03.01.2020 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P5 TRUE COPY OF CIRCULAR NO.16/2022 DATED 19.07.2022 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P6 TRUE COPY OF APPLICATION FOR CONDONATION OF DELAY IN FILING FORM 10B DATED 25.10.2023 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P7 TRUE COPY OF WRITTEN SUBMISSIONS DATED 14.02.2024 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- Exhibit P8 TRUE COPY OF IMPUGNED ORDER DATED 22.02.2024 OF THE 1ST RESPONDENT.
- Exhibit P9 TRUE COPY OF ORDER DATED 15.03.2024 IN WRIT PETITION.NO 10543 OF 2024.