HC-KAR

NC: 2026:KHC:49975
WP No. 25922 of 2026

CNR: KAHC010565192026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 25922 OF 2026 (T-IT)

BETWEEN:

SHRI ASHISH SHUKLA,
S/O RAJENDRA BAHADUR SHUKLA,
AGED ABOUT 44 YEARS,
R/O NO. 127/740, W-2,
BASANT VIHAR, KANPUR - 208 021,

PRESENTLY AT,
VILLA 64, PRESTIGE
SUMMERFIELD,
BHOGANHALLI,
NEAR AMBEDKAR STATUE,
BELLANDUR,
BENGALURU 560 103.

...PETITIONER

(BY SRI. HEMANT VENKATRAY PAI., ADVOCATE)

Digitally signed by VANAMALA N
Location: HIGH COURT OF KARNATAKA

AND:

1. PRINCIPAL COMMISSIONER OF
INCOME TAX - 3,
BMTC BUILDING, 80 FEET ROAD,
6TH BLOCK, KORAMANGALA,
BENGALURU - 560 095.

2. JOINT COMMISSIONER OF INCOME TAX,
RANGE - 3(3), NO. 59,
4TH FLOOR, HMT BHAVAN,
BELLARY ROAD, GANGANAGAR,
BENGALURU 560 032.

3. THE ASSISTANT COMMISSIONER OF
INCOME TAX,
CIRCLE - 3(3)(1), NO. 59, 4TH FLOOR,
HMT BHAVAN, BELLARY ROAD,
GANGANAGAR,
BENGALURU 560 032.

...RESPONDENTS

(BY SRI. M. THIRUMALESH., ADVOCATE A/W
SRI. NIRMAL MATHEW., ADVOCATES)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) QUASHING THE REJECTION ORDER DATED 27.02.2026 PASSED BY THE RESPONDENT NO. 1 UNDER SECTION 119(2)(B) OF THE ACT FOR THE AY 2019-20, BEARING DIN ITBA/COM/F/17/2025-26/1086649841(1), A COPY OF WHICH IS ENCLOSED HEREWITH AND MARKED AS ANNEXURE – A; B) QUASHING THE REJECTION ORDER DATED 27.02.2026 PASSED BY THE RESPONDENT NO. 1 UNDER SECTION 119(2)(B) OF THE ACT FOR THE AY 2020-21, BEARING DIN ITBA/COM/F/17/2025-26/1086653652(1), A COPY OF WHICH IS ENCLOSED HEREWITH AND MARKED AS ANNEXURE-A1;

C) QUASHING THE REJECTION ORDER DATED 27.02.2026 PASSED BY THE RESPONDENT NO. 1 UNDER SECTION 119(2)(B) OF THE ACT FOR THE AY 2021-22, BEARING DIN ITBA/COM/F/17/2025-26/1086654730(1), A COPY OF WHICH IS ENCLOSED HEREWITH AND MARKED AS ANNEXURE-A2;
D) QUASHING THE REJECTION ORDER DATED 27.02.2026 PASSED BY THE RESPONDENT NO. 1 UNDER SECTION 119(2)(B) OF THE ACT FOR THE AY 2022-23, BEARING DIN ITBA/COM/F/17/2025-26/1086655155(1), A COPY OF WHICH IS ENCLOSED HEREWITH AND MARKED AS ANNEXURE - A3;
E) QUASHING THE REJECTION ORDER DATED 27.02.2026 PASSED BY THE RESPONDENT NO. 1 UNDER SECTION 119(2)(B) OF THE ACT FOR THE AY 2023-24, BEARING DIN ITBA/COM/F/17/2025-26/1086655455(1), A COPY OF WHICH IS ENCLOSED HEREWITH AND MARKED AS ANNEXURE - A4;
F) DIRECTING THE RESPONDENT NO. 3 TO ENABLE THE FACILITY FOR E-FILING THE REVISED RETURNS BELATEDLY OF INCOME FOR THE AY 2019-20, 2020-21, 2021-22, 2022-23 AND 2023-24 PROCESS THE SAME AND ISSUE THE APPLICABLE REFUND IN A TIME-BOUND MANNER.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner is an employee with M/s. Flipkart India Private Limited [*FIPL*], and the petitioner has called in question the first respondent's Orders under Section 119[2][b] of the Income Tax Act, 1961 [for short, *'the Act'*] rejecting the petitioner's application for condonation of delay to file Revised Returns of five assessment years commencing with the assessment year 2019-20. The details of the first respondent's impugned orders are as follows.

Sl. No.	*Assessment Year*	*Rejection Order*	*Annexures*
1	*2019-20*	*27.02.2026*	*A*
2	*2020-21*	*27.02.2026*	*A1*
3	*2021-22*	*27.02.2026*	*A2*
4	*2022-23*	*27.02.2026*	*A3*
5	*2023-24*	*27.02.2026*	*A4*

The first respondent, in rejecting the petitioner's applications by the impugned orders, has essentially reasoned thus while placing reliance upon a decision of a Co-ordinate Bench of this Court dated

24.10.2017 in ***'Sharavathy Conductors Private Limited v The Chief Commissioner of Income Tax, Bengaluru – 2 and Others'*** in the writ petition in W.P. No.28376/2017.

> *"3. In this case, a report was obtained from the JAO, DCIT, C-3[3][1], Bengaluru, who did not recommend condonation of delay in filing the revised return. It was noted that the applicant had filed the original returns for the relevant years admitting salary income, which included consideration received on repurchase of stock options by Flipkart India Pvt. Ltd. [FIPL]. Subsequently, the applicant sought to file revised returns, re-characterizing the said receipts as capital gains, contending that the employer's classification was a conservative stand. On verification, the AO observed that the employer had correctly treated the repurchase of stock options under the Flipkart Stock Option Scheme, 2012 as a perquisite in terms of Section 17[2][vi] of the Income Tax Act, since the buyback proceeds constituted a monetary benefit arising directly from employment. As the options were never converted into shares and sold independently,*

the receipt was linked to the employment contract and rightly taxed under the head salaries. The AO concluded that the original assessment was in accordance with law and records, and hence no error or valid refund arises. Consequently, the application does not establish genuine hardship as required under section 119[2][b]. In view of the above, the case is not found fit for condonation. The Range Head concurred with the remarks of the JAO."

2. Sri Hemant Venkatray Pai, the Learned counsel for the petitioner, submits that this Court must intervene because of the following.

[*A*] The petitioner's applications are rejected examining the merits of the request for revision rather than examining the reason offered and the financial hardship.

[B] The petitioner, based on Form-16 issued by FIPL, has filed Returns for all the five Assessment Years, adopting the value for

which his employer, M/s Flipkart India Private Limited [*FIPL*] has purchased these *Employee Stock Option Scheme* [*ESOPs*] allotted to the petitioner without realizing that the consideration cannot be treated as '*salaries*' only because the petitioner had not converted the allotment into shares when it is indisputable that the shares stood vested with the petitioner.

[C] The petitioner has, in the applications filed for condonation of delay, quantified the refund that the petitioner would be admitted to if the petitioner is permitted to revise the Returns to show the receipts not as '*salary*' but as '*capital asset*' and that these details have not been considered.

3. Sri. M. Thirumalesh, a learned senior standing counsel for the respondents and who is assisted by Sri Nirmal Mathew, a learned standing counsel for the respondents, are heard for disposal of the petition. The learned Standing Counsel submits that the petitioner has filed these applications the decision of the Income Tax Appellate Tribunal, Bangalore Benches, Bangalore Bench-B, Bengaluru *[Tribunal]* in the appeal in ITA No.3034/Bang/2025 on whether the receipt in the circumstances relied upon by the petitioner could be adopted as '*salary*' and that the petitioner, who has filed Returns consistently in terms of Form-16 adopting the receipt as salary cannot take advantage of the turn of events and seek condonation..

4. In response, Sri Hemant V Pai submits that the Tribunal's order is only on 30.07.2026 and the petitioner's applications are about one and half years prior to the date of such decision and therefore

the *bonafides* asserted by the petitioner in seeking condonation of delay cannot be disputed on such ground. The learned counsel also submits that the first respondent could not have relied upon the decision in ***Sharavathy Conductors Private Limited*** [*Supra*] because the Division in the writ appeal in W.A. No.6752/2017 has set-aside such order condoning the delay and directing the Assessing Office to process the Revised Returns in accordance with law..

5. The question for consideration is *whether this Court must intervene with the first respondent's impugned orders to restore the proceedings with opportunity to allow the petitioner to file a rejoinder in support of the applications for condonation of delay*. This Court must observe that the first respondent has opined that the petitioner has failed to establish *genuine hardship* as required under Section 119[2][b] of the Act and that the petitioner's case is not found fit for condonation, but this is in the backdrop of the

Assessing Officer's opinion that the petitioner would not be entitled to adopt the receipts paid by the employer [*FIPL*] as capital gain because the *options were never converted into shares and sold independently and the receipt was linked to the petitioner's contract and is rightly taxed under the head 'salaries'*.

6. The Division Bench's Judgment dated 10.02.2020 in the writ appeal in W.A. No.6752/2017 undisputedly underscores the proposition that the jurisdiction to condone the delay cannot be exercised to adjudicate upon disputed or contentious claims. If the first respondent, rather than examining the petitioner's cause for condonation of delay has decided the matter based on merits and the opinion of the Assessing Officer on merits, this Court is of the view that such orders cannot be sustained and the petitioner's applications must be restored for due consideration in the backdrop of the petitioner's

cause for filing applications belatedly and the genuine hardship that the petitioner asserts to support the request for condonation of delay. Hence the following:

ORDER

[A] The petition is allowed in-part.

[B] The first respondent's following Orders are quashed restoring each of the petitioner's corresponding applications for reconsideration with liberty to the petitioner to file further justification in support of the request for condonation of delay along with a certified copy of this order by ***06.11.2026.***

Sl. No.	*Assessment Year*	*Rejection Order*	*Annexures*
1	*2019-20*	*27.02.2026*	*A*
2	*2020-21*	*27.02.2026*	*A1*
3	*2021-22*	*27.02.2026*	*A2*
4	*2022-23*	*27.02.2026*	*A3*
5	*2023-24*	*27.02.2026*	*A4*

[C] The first respondent is called upon to consider the restored applications entirely based on the parameters that would be relevant for the purposes of Section 119[2][b] of the Act. It is needless to observe that this Court has not made any observations on the merits of the petitioner's case for filing revised Returns and that the first respondent must consider these restored applications expeditiously.

SD/-
(B M SHYAM PRASAD)
JUDGE

AN/-

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