



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.1755 of 2026

Sri Baidyanath Memorial Trust* *Petitioner

Mr. Jagabandhu Sahoo, Senior Advocate
along with Ms. Kajal Sahoo and
Mr. Romeet Panigrahi, Advocates

-versus-

***Income Tax Officer Exemption* *Opposite Parties*
*Circle, Bhubaneswar and others***

Mr. Subash Chandra Mohanty,
Senior Standing Counsel

CORAM:

THE HON'BLE THE CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

19.02.2026

Order No.

01. ***I.*** Order dated 26th September, 2025 passed by the learned Income Tax Appellate Tribunal, Cuttack Bench, Cuttack in ITA NO.438/CTK/2025 affirming the order dated 17th June, 2025 passed by Additional/JCIT (A)-1 Nashik passed in Appeal No.ADDL/JCIT (A)-1 NASHIK/10006/2019-20 refusing to condone the delay of 822 days in filing appeal is assailed in this present writ petition and challenge is also made to intimation dated 24.12.2021 under Section 143 of the Income Tax Act, 1961 disallowing a sum of Rs.2,60,16,856/- claimed to be exempted under Section 12AA/10(23)(c) read with Section 11 of the Income Tax Act, 1961.
- 2.** Aggrieved thereby in order to ventilate its grievance, an appeal was preferred on 25.04.2024 with a delay of around 822 days.



Explaining the cause for the delay in filing appeal, a petition for condonation of delay was filed which came to be rejected and thereby the appeal stood dismissed by the Appellate Authority. Against the said order, the petitioner approached the learned Income Tax Appellate Tribunal, which also faced with same fate.

3. Shri Jagabandhu Sahoo, learned Senior Advocate submitted that *vide* order dated 10th January, 2022 passed in *Miscellaneous Application No.21 of 2022 in Miscellaneous Application No.665 of 2021 in Suo Motu Writ Petition (C) No.3 of 2020 in Re: Cognizance for Extension of Limitation*, the Hon'ble Supreme Court extended the period of limitation for filing cases/appeals within ninety days from 01.03.2022 with respect to matters for which normal period of limitation lapsed during 15.03.2020 till 28.02.2022. He submitted that the delay in filing the appeal beyond the said period stipulated by the Hon'ble Supreme Court is required to be considered leniently in view of the fact that entire claim of exemption from payment of Income Tax is disallowed without proper appreciation of fact. He further submitted that the petitioner has approached this Court by way of this mercy petition. Given a chance, the petitioner would be able to demonstrate before the authority concerned that it is, in fact, entitled for exemption and in consideration of the evidence to be produced before the Appellate Authority, the demand raised by the Assessing Officer would be reduced to NIL/negligible. He, therefore,



fervently prayed for restoration of appeal of adjudication on merit.

4. Shri Subash Chandra Mohanty, learned Senior Standing Counsel appearing for the opposite parties opposing the submissions and arguments so advanced by the learned Senior Advocate appearing for the petitioner submitted that being indolent assessee, the petitioner is not entitled to be protected and granted relief as sought for. Therefore, vehemently contesting the matter, he insisted for dismissal of writ petition in *limine*.
5. Heard Mr. Jagabandhu Sahoo, learned Senior Advocate along with Ms. Kajal Sahoo and Mr. Romeet Panigrahi, learned counsel appearing for the petitioner and Mr. Subash Chandra Mohanty, learned Senior Standing Counsel appearing for the opposite parties.
6. Perusal of the record it transpires that the petitioner has been disallowed claim for exemption under Section 12AA/10(23)(c) read with Section 11 of the Income Tax Act. The appeal challenging the assessment order was filed with a delay of 822 days.
 - 6.1. It is not unknown that the entire world was engulfed with Covid-19 Pandemic since March, 2020 and the Hon'ble Supreme Court of India has passed very many judgments/orders extending the period of limitation specified under different



statutes for filing cases/appeals, which expired after 15th March, 2020.

6.2. It is pertinent to take note of order dated 10th January, 2022, of Supreme Court *In Re: Cognizance for Extension of Limitation (supra)*, paragraph-5 whereof contains as follows:

“Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No.21 of 2022 with the following directions:

- I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.03.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.*
- II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.*
- III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.*
- IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the*



periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period (s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”

- 6.3. From the averments and narration of fact coupled with argument advanced by the counsel for both sides, it transpires that refusal to condone the delay would result in nipping in the bud meritorious matter like the present one. This Court is not oblivious to notice that Section 249 of the I.T. Act confers power on the Appellate Authority to condone the delay. Bare reading of sub-section (3) of Section 249 of the I.T. Act makes it unequivocal that the Appellate Authority is competent to take on record the material and delve into the merit of the petition for condonation of delay by analyzing the evidence.
7. However, considering the fact that most of the period of delay was consumed during the period of pandemic since the order of Appellate Authority has come to be passed and the order of learned Income Tax Appellate Tribunal has rendered the petitioner remediless to substantiate the claim for exemption under Section 12AA/10(23)(c) read with Section 11 of the Income Tax Act, 1961. Since the issue is relating to furnishing of evidence and establishment of claim of exemption in return, this Court is, therefore, inclined to show indulgence in the



matter by taking a lenient view in order to grant an opportunity to the petitioner to substantiate its claim.

8. In our considered view, the petitioner is entitled for one opportunity before the Appellate Authority for adducing evidence in support of exemption as claimed in the returns. This Court does not perceive in the aforesaid facts and circumstances any deliberate attempt on the part of the petitioner for the delay. This Court, taking a pragmatic view of the matter in exercise of power under Article 226 of the Constitution of India, condones the delay perceiving sufficient cause being assigned by the petitioner and sets aside the order dated 26th September, 2025 passed by the learned Income Tax Appellate Tribunal, Cuttack Bench, Cuttack and the order dated 17th June, 2025 passed by the Additional/JCIT (A)-1 Nashik passed in Appeal No.ADDL/JCIT (A)-1 NASHIK/10006/2019-20 and restore the appeal to file. This Court remits the matter to the Appellate Authority, *i.e.*, Additional/JCIT (A)-1 Nashik for adjudication of the appeal on merit.

8.1. Needless to observe that the Appellate Authority shall afford an opportunity of personal hearing to the petitioner. For the purpose of availing the opportunity, the petitioner shall appear before the Appellate Authority within fifteen days along with copy of this order and the documents to corroborate its claim opposing the allegation made by the Department. On such event, the Appellate Authority may proceed with the assessment forthwith or reschedule the date



of hearing. It is desirable that no unnecessary adjournment shall be sought for and/or be granted. The petitioner shall cooperate with the Department and the Appellate Authority after hearing the petitioner and taking into consideration the evidence, if any, adduced by the petitioner shall pass appropriate Assessment Order and communicate the same.

9. With the aforesaid observations and direction, the writ petition is disposed of and the pending Interlocutory Application(s), if any, shall also stand disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Aswini

**Signature Not
Verified**
Digitally Signed
Signed by: ASWINI KUMAR
SETHY
Designation: Personal
Assistant (Secretary-in-
charge)
Reason: Authentication
Location: ORISSA HIGH
COURT, CUTTACK
Date: 24-Feb-2026 11:05:31