

Howrah Heritage Society and Anr — WPA No. 9369/2026

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05-05-2026 CT No. 10 Sl. 3 RP WPA 9369 of 2026

Howrah Heritage Society and Anr. -Versus- Union of India & Ors.

Ms. Sutapa Roychoudhury, Sr. Adv., Mr. Abhijat Das, Ms. Aratrika Roy and Mr. Anirban Chatterjee for the petitioner. Mr. Tarak Nath Jaiswal and Mr. Sujit Mitra for the respondent.

1. The petitioner being an assessee under the Income Tax Act, 1961 (hereinafter referred to as the said Act) carries on various charitable activities and is registered under Section 12A of the said Act.

2. Main grievance of the petitioner is with regard to the non disposal of its application dated 27.01.2026 filed before the respondent no. 2 for the assessment year 2024-25, seeking condonation of delay in filing Form 10B.

3. Leaned Senior Counsel appearing for the petitioner submits that an application for condonation of delay in filing Form 10B has been submitted along with the audit Report. However, due to an inadvertent mistake by the Chartered Accountant, the audit report has been filed in Form 10BB instead of Form 10B.

4. It is further submitted that the petitioner is a charitable trust exempted under Section 12A of the said Act. As such, an audit report is mandatorily required to be filed in Form-10B. The assessee by way of an application dated 27.01.2026 along with an application for condonation of delay, has sought rectification. Learned Counsel appearing for the petitioner places reliance upon Circular No. 2 of 2020 dated 03.01.2020 by drawing attention of this Court to the relevant paragraph Nos. 5 and 6 which are reproduced below:-

"5. In addition to the above, it has also been decided by the CBDT that where there is delay of upto 365 days in filing Form No. 10B for Assessment Year 2018-19 or for any subsequent Assessment Years, the Commissioners of Income tax are hereby authorized to admit such belated applications of condonation of delay u/s 119(2) of the IT Act and decide on merits.

6. The Commissioners of Income tax shall, while entertaining such belated applications in filing Form NO. 10B, satisfy themselves that the assessee was prevented by reasonable cause from filing such application within the stipulated time."

5. The learned Counsel appearing for the respondent authorities submits that the circular no. 2/2020 has already been superseded by circular no. 16/2024 dated 18.11.2024 and draws the attention of this Court to Paragraph no. 3 of the said circular which is reproduced below:-

"No application for condonation of delay in filing of Form No. 9A/10/10B/10BB shall be entertained beyond three years from the end of the assessment year for which such application is made. The time limit for filing of such application within three years from the end of the assessment year will be applicable for application filed on or after the date of issue of this Circular. A condonation application should be disposed of, as far as possible, within six months from the end of the month in which such application is received by the Competent Authority."

6. It is submitted by the respondents that the application filed by the assessee is still under process. By virtue of circular no. 16/2024 the competent authority is required to dispose of the condonation application, as far as possible within 6 months from the end of the month in which such application is received.

7. The respondent authorities submits that the instant writ petition is premature in nature since the application dated 27.01.2026 has been received by the authority concerned on 28.01.2026, and the time prescribed for disposal of the said application, along with the application for condonation as per 119(2)(b) of the Said Act has not yet expired.

8. After hearing the rival contention of the parties, upon perusing the materials on record, I am of the considered view that the petitioner is a charitable Trust registered under Section 12A. The exemption under Section 12A is a substantive right. A procedural lapse in filing the audit report in Form 10BB instead of Form 10B cannot, by itself, defeat such substantive entitlement as held in CIT VS Rajasthan and Gujrat Charitable Foundation reported at (2018) 14 SCC 348.

9. Since Circular No. 16/2024 mandates that condonation application should as far as possible be disposed of within six months from the end of the month in which such application is received. The petitioner's application is still pending. Administrative inaction in deciding a statutory application within prescribed period warrants an interference.

10. In view of the above, I direct the respondent no. 2 being the competent authority to consider and dispose of both the applications in terms of the circular No. 16/2024 dated 18.11.2024 preferably within a period of one month on or before 30th June, 2026 and shall pass a reasoned speaking order in accordance with law upon affording an opportunity of hearing to the petitioner and communicate such decision within a week thereafter.

11. The writ petition being WPA 9369 of 2026 is disposed of without going into the merits of the case.

(Smita Das De, J.)