



AFR

ORISSA HIGH COURT : CUTTACK

W.P.(C) No.8035 of 2025

In the matter of an Application under
Articles 226 and 227 of the Constitution of India

* * *

Action Research for Health and
Socio-economic Development
At: Patnagarh, Ramjee Square
District: Bolangir – 767 025, Odisha
Represented by its Director
Sabita Mohapatra
Aged about 57 years
Daughter of Late Brajabandhu Mohapatra
At: Patnagarh, Ramjee Square
District: Bolangir – 767 025
Odisha. ... Petitioner

-VERSUS-

- 1.** Central Board of Direct Taxes (CBDT)
Represented by its Chairman
North Block, New Delhi-110002.
- 2.** Commissioner of Income Tax Exemption,
Hyderabad, Aayakar Bhawan
Opposite LB Stadium
Basheer Bagh, Hyderabad – 500 004
Telengana.
- 3.** Centralized Processing Centre (CPC)
Income Tax Department



Represented by
Assistant Director of Income Tax, CPC
Bengaluru, Karnataka. ... *Opposite parties*

Counsel appeared for the parties:

For the Petitioner : Mr. Chitrasen Parida, Advocate
For the Opposite parties : Mr. Avinash Kedia,
Junior Standing Counsel
for Income Tax Department

P R E S E N T:

**HONOURABLE CHIEF JUSTICE
MR. HARISH TANDON**

AND

**HONOURABLE JUSTICE
MR. MURAHARI SRI RAMAN**

Date of Hearing : 25.04.2025 :: Date of Judgment : 25.04.2025

JUDGMENT

MURAHARI SRI RAMAN, J.—

Challenging the legality and propriety of Order dated 17.02.2025 (Annexure-1) passed by the Commissioner of Income Tax (Exemption), Hyderabad-opposite party No.2, rejecting the application for condonation of delay in furnishing Audit Report in Form-10B prescribed under Rule 17B of the Income Tax Rules, 1962, in respect of the Assessment Year 2020-21, exercising power under Section 119(2)(b) of the Income Tax Act,



1961, the petitioner has approached this Court by filing this writ petition craving to invoke extraordinary jurisdiction under Article 226/227 of the Constitution of India with the following prayer(s):

“In view of the above circumstances, it is most respectfully prayed that this Hon’ble Court may graciously be pleased to:

- a) Admit the Writ application;*
 - b) Issue a writ in the nature of Certiorari or any other appropriate writ, Order or direction, calling for the records of the Petitioner’s case and after going into the legality and propriety thereof to:*
 - i. quash and set aside the impugned order of rejection dated 17.02.2025 under Annexure-1 passed by the opposite party No.2;*
 - ii. quash and set aside the impugned intimation/order under Section 143(1) of the Income Tax At, 1961 dated 30.11.2021 under Annexure-2 passed by the opposite party No.3;*

and

 - iii. condone the delay in filing the Audit Report (Form 10B) under Annexure-3 Series for the Assessment Year 2020-21.*
- c) And if the opposite parties fail to show cause or sufficient cause, then the rule may be made absolute;*



d) And further your Lordships may please to pass such other order/orders as your Lordships may deem fit and proper;

And for this act of kindness, the petitioner as in duty bound shall ever pray.”

Facts:

2. The petitioner, Charitable Society (Trust) registered under Section 12A of the Income Tax Act, 1961 (for short, “the IT Act”), namely, ACTION RESEARCH FOR HEALTH AND SOCIO-ECONOMIC DEVELOPMENT, is engaged in the field of conducting programmes on Health, Women Empowerment, Medicinal Plants, Old age care and Livelihood *etc.*

2.1. The Audit Report in Form-10B for the Assessment Year 2020-21 claiming exemption under Section 12A read with Rule 17B was required to be filed on or before 15.01.2021 in terms of the Press Release dated 30.12.2020 of the Government of India, Ministry of Finance Department of Revenue in view of the challenges faced by the taxpayers in meeting the statutory and regulatory compliance due to the outbreak of pandemic due to spread of COVID-19 virus. The petitioner filed the Audit Report in Form 10B prescribed under Rule 17B of the Income Tax Rules, 1962 (for short, “IT Rules”) on 31.03.2021, thereby there occurred delay of seventy-six days for the circumstances beyond its control.



- 2.2. Pandemic situation prevented many citizen-assesseees from complying with the statutory requirements, which led to promulgation of the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (Order 2 of 2020) to provide certain relaxations related to compliance, such as extension of time limit and waiver of penalty, in relation to certain specified laws including the IT Act, the Finance Acts, the Central Excise Act, 1944, the Customs Act, 1962, and the Prohibition of *Benami* Property Transactions Act, 1988. The Ordinance provided these relaxations in view of spread of the coronavirus in India. By virtue of enactment of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, which has deemed to have come into force on the 31st day of March, 2020, said Ordinance, 2020 was repealed and action taken thereunder was saved.
- 2.3. The reason cited by the petitioner for the delay was due to difficulty faced in movement on account of shutdown clamped by the Government during COVID-19 pandemic. The normal functioning of the office of the petitioner-Society was affected and irregular attendance of the staff in the Office, was the cause for the delay in filing the Audit Report in Form 10B. Though the petitioner-Charitable Society is entitled to claim exemption under Section 12A of the IT Act, the Department while



processing the return of income, such claim of exemption was disallowed on the ground that the Audit Report was not filed within the period specified under the statute, as a result of which demand to the tune of Rs.22,01,930/- was raised by issuing intimation dated 30.11.2021 under Section 143 (Annexure-2).

- 2.4. Citing such *bona fide* reason preventing the petitioner from filing the Audit Report on or before 15.02.2021, it is stated that the delay of seventy-six days in filing said Audit Report in Form 10B should have been ignored. Hence, the petitioner on 03.12.2024 filed an application before the Commissioner of Income Tax (Exemption), Hyderabad-opposite party No.2 under Section 119(2)(b) of the IT Act with prayer to condone the delay in filing such Audit Report. In furtherance thereof, on the information being sought for by the Department, *vide* notice dated 05.12.2024, compliance was made on 18.12.2024. Nevertheless, the opposite party No.2 without affording opportunity to the petitioner rejected the application for condonation of delay on 17.02.2025, which is subject-matter of challenge in the instant writ petition.

Hearing:

3. This matter came up before this Court under the heading “Fresh Admission”.



- 3.1. As short point fell for consideration as to whether reason shown by the petitioner which prevented it to comply with the statutory requirement within the period stipulated has been rejected by the Commissioner of Income Tax (Exemptions) rightfully so that the demand of income tax to the tune of Rs.22,01,930/- under Section 143 of the IT Act would sustain, on the consent of counsel for both sides, this matter is disposed of at the stage of “Fresh Admission”.
- 3.2. Accordingly, heard Sri Chitrasen Parida, learned Advocate appearing for the petitioner and Sri Avinash Kedia, learned Junior Standing Counsel appearing for the opposite parties.

Rival contentions and submissions:

4. Sri Chitrasen Parida, learned counsel appearing for the petitioner submitted that the Commissioner of Income Tax has rejected the application for condonation of delay invoking power under Section 119(2)(b) of the Income Tax Act in filing Audit Report in Form-10B prescribed under Rule 17B of the IT Rules pertaining to the Assessment Year 2020-21 on flimsy and illogical grounds. The arbitrary exercise of discretion vested in the Authority would render the impugned order vitiated.
- 4.1. It is vociferously urged that when there is no dispute that the Audit Report was required to be filed on or



before 15.01.2021, but the same was filed on 31.03.2021, the reason for the delay of seventy-six days in filing said Report should have been appreciated pragmatically by condoning the delay. Having thus admitted the Audit Report, the petitioner should have been allowed the claim for exemption under Section 12A of the IT Act.

4.2. He submitted that it is common knowledge that *force majeure*¹ situation prevailed over entire world including India during 2020-22. He would point out that:

- i. It is incorrect on the part of the Authority to say that the petitioner was negligent. There was difficulty in apprising accounts facilitating the Chartered Accountant, who was practising in Bhubaneswar, to prepare Audit Report coming down from Patnagarh in the district of Bolangir, from where the petitioner-Society operates, as the pandemic situation prevailed till 2022, as is apparent from the Order dated 10.01.2022 of the Hon'ble Supreme Court of India *vide* Annexure-9.

¹ In business circles, '*force majeure*' describes those uncontrollable events or circumstances beyond human control such as an event described as an act of God (like natural calamity, war, strike, riots, etc.) that are not the fault of any party and that make it difficult or impossible to carry out normal business and perform the contractual liability despite of readiness and willingness. Generally, on the activation of the *Force Majeure clause* in the contract, it absolves both parties from contractual liability or obligation under the contract. The relevant provisions are embodied under Sections 32 and 56 of the Indian Contract Act, 1872. : Source: www.livelaw.in/law-firms/articles : COVID-19 Crisis: Force Majeure And Impact On Contracts From An Indian Law Perspective.



- ii. The decision rendered by the Delhi High Court could not have been relied on to reject the application for condonation of delay inasmuch as no detail has been provided by the concerned Authority in the order. To illustrate, the date of Judgment is not available nor the reference of its reporting. As it seems the said referred Judgment does not relate to situation like the present one.
- iii. The decisions of Supreme Court in *Ranka Vrs. Rewa Coalfields Ltd.*, AIR 1962 SC 361 and Madras High Court in the case of *Madhu Dadha Vrs. ACIT*, 317 ITR 458 have been referred to by the Authority to say that each day's delay needed to be explained and the delay could be allowed on "genuine hardship". The ratio of said judgments has not been appropriately applied inasmuch as the Hon'ble Supreme Court in its Order dated 10.01.2022 rendered in *Miscellaneous Application No.21 of 2022 in Miscellaneous Application No.665 of 2021 in Suo Motu Writ Petition (C) No.3 of 2020* acknowledged plight of litigants and issued directions granting 90 days' from 01.03.2022 for compliance of statutory requirement.

He placed reliance on the following observation made by one of us (Hon'ble Shri Harish Tandon, Chief Justice) in the case of *Joharimal High School*,



Cuttack Vrs. The Principal Commissioner of Income Tax (Exemptions), Hyderabad and others, W.P.(C) No. 3183 of 2025, vide Order dated 05.04.2025 in the context of application for condonation under Section 119(2)(b) of the IT Act:

“It appears to us that the authority has taken a stricter view and without adverting to the explanation offered has proceeded on the basis of the ratio of law culled out from the various judgment of the apex Court. The law has to be applied not in an adjunct manner, but in the perspective of the context, i.e., the facts involved therein as each fact cannot be equated with the other facts and, therefore, a pragmatic approach is required in relation to an application for condonation of delay.”

- iv. The principle devised in Union of India Vrs. Dilip Kumar & Co., (2018) 9 SCC 1, being rendered under different context and factual scenario, could not be applied to the instant case. In the present case to claim exemption under Section 12A of the IT Act, the Audit Report in Form 10B prescribed under Rule 17B of the IT Rules has been furnished with a delay of seventy-six days as there was reasonable cause demonstrating genuine hardship which prevented the petitioner from filing within the period stipulated.*



v. The Commissioner of Income Tax stemming on the Circular No.9/2015, dated 09.06.2015 issued by the Central Board of Direct Taxes in the matter of consideration of application for condonation of delay under Section 119(2)(b) of the IT Act, refused to admit the Audit Report claiming benefit of exemption. It is gross mistake on the part of the Authority concerned and failure on his part to perceive that such Circular has already been superseded by subsequent Circular.

4.3. With his usual humility, Sri Chitrasen Parida, learned Advocate would submit that the Commissioner of Income Tax (Exemption), while rejecting the application for condonation of delay in filing Audit Report in Form 10B under Section 12A read with Rule 17B, passed the Order dated 17.02.2025 not in consonance with terms of Circular 16/2024 [F. No.197/639/2024-ITA-I] dated 18.11.2024 issued by the Central Board of Direct Taxes (Annexure-7). Expanding his argument he strenuously contended that the Authority being conscious of the fact that Circular No.9/2015, dated 09.06.2015 has been superseded by virtue of Circular 16/2024 [F. No.197/639/2024-ITA-I] dated 18.11.2024, the impugned rejection order cannot be sustained in the eye of law.



5. Sri Avinash Kedia, learned Junior Standing Counsel appearing for the Department-opposite parties strongly opposed the contention of the learned counsel for the petitioner and sought to justify the reason assigned by the Commissioner of Income Tax (Exemption).
- 5.1. He strenuously argued in favour of the Department to contend that time schedule specified under the IT Act and rules framed thereunder is sacrosanct and there cannot be any deviation therefrom without extension granted under proper notification/circular. The petitioner cannot be allowed to file documents at his sweet wish. The petitioner was conscious and had knowledge about the compliance of statutory requirement within the time frame, failing which the claim for exemption would get rejected. The Commissioner of Income Tax (Exemption) did reject the claim having regard to instructions and decisions on the subject.
- 5.2. Having applied his mind rationally, the Order dated 17.02.2025 of the Commissioner of Income Tax (Exemption) cannot be interfered with. Doing so would be taking away his discretionary power to consider condonation of delay in filing Audit Report in Form 10B.
- 5.3. Therefore, the application for condonation of delay, being rightfully rejected by the opposite party No.2, indulgence



in the matter by this Court is unwarranted. Allowing the writ petition would tantamount to tinker with the demand raised against the petitioner under Section 143 of the IT Act.

Statutory provisions:

6. Relevant provisions of the IT Act are given hereunder.

“12A. Conditions for applicability of Sections 11 and 12.—

(1) The provisions of Section 11 and Section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the Principal Commissioner or Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, whichever is later and such trust or institution is registered under Section 12AA:

Provided that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of Section 11 and 12 shall apply in relation to the income of such trust or institution,—



- (i) *from the date of the creation of the trust or the establishment of the institution if the Principal Commissioner or Commissioner is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons;*
- (ii) *from the 1st day of the financial year in which the application is made, if the Principal Commissioner or Commissioner is not so satisfied:*

Provided further that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;

- (aa) *the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the Principal Commissioner or Commissioner and such trust or institution is registered under Section 12AA;*
- (ab) *the person in receipt of the income has made an application for registration of the trust or institution, in a case where a trust or an institution has been granted registration under Section 12AA or has obtained registration at any time under Section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)], and, subsequently, it has*



adopted or undertaken modifications of the objects which do not conform to the conditions of registration, in the prescribed form and manner, within a period of thirty days from the date of said adoption or modification, to the Principal Commissioner or Commissioner and such trust or institution is registered under Section 12AA;

- (b) *where the total income of the trust or institution as computed under this Act without giving effect to the provisions of Section 11 and Section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year, the accounts of the trust or institution for that year have been audited by an accountant as defined in the Explanation below sub-Section (2) of Section 288 before the specified date referred to in Section 44AB and the person in receipt of the income furnishes along with the return of income for the relevant Assessment Year the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.*
- (ba) *the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of Section 139, within the time allowed under that section;*

** * **

- (2) *Where an application has been made on or after the 1st day of June, 2007, the provisions*



of Sections 11 and 12 shall apply in relation to the income of such trust or institution from the Assessment Year immediately following the financial year in which such application is made:

Provided that where registration has been granted to the trust or institution under Section 12AA, then, the provisions of Sections 11 and 12 shall apply in respect of any income derived from property held under trust of any Assessment Year preceding the aforesaid Assessment Year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding Assessment Year:

Provided further that no action under Section 147 shall be taken by the Assessing Officer in case of such trust or institution for any Assessment Year preceding the aforesaid Assessment Year only for non-registration of such trust or institution for the said Assessment Year:

Provided also that provisions contained in the first and second proviso shall not apply in case of any trust or institution which was refused registration or the registration granted to it was cancelled at any time under Section 12AA.

119. Instructions to subordinate authorities.—



- (1) *The Board may, from time to time, issue such orders, instructions and directions to other income-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:*

Provided that no such orders, instructions or directions shall be issued—

- (a) so as to require any income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or*
 - (b) so as to interfere with the discretion of the Commissioner (Appeals) in the exercise of his appellate functions.*
- (2) *Without prejudice to the generality of the foregoing power,—*
- (a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 115P, 115S, 115WD, 115WE, 115WF, 115WG, 115WH, 115WJ, 115WK, 139, 143, 144, 147, 148, 154, 155, 158BFA, sub-section (1A) of Section 201, sections 210, 211, 234A, 234B, 234C, 234E, 270A, 271, 271C, 271CA and 273 or otherwise), general or special orders in respect of any class of incomes or fringe benefits or class of cases, setting forth directions or*



instructions (not being prejudicial to assesseees) as to the guidelines, principles or procedures to be followed by other income tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

- (b) the Board may, if it considers it desirable or expedient so to do for avoiding **genuine hardship** in any case or class of cases, by general or special order, authorise any income-tax authority, not being a Commissioner (Appeals) **to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act** for making such application or claim and deal with the same on merits in accordance with law;*
- (c) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order for reasons to be specified therein, relax any requirement contained in any of the provisions of Chapter IV or Chapter VI-A, where the assessee has failed to comply with any requirement specified in such provision for claiming deduction thereunder, subject to the following conditions, namely:—*



- (i) *the default in complying with such requirement was due to circumstances beyond the control of the assessee; and*
- (ii) *the assessee has complied with such requirement before the completion of assessment in relation to the previous year in which such deduction is claimed:*

Provided that the Central Government shall cause every order issued under this clause to be laid before each House of Parliament.”

6.1. Rule 17B of the IT Rules stands thus:

“17B.Audit Report in case of charitable or religious trusts.—

The report of audit of the accounts of trust or institution which is required to be furnished under clause (b) of Section 12A, shall be in Form No.10B.”

Discussions and analysis:

7. Diligent reading of provisions of Section 12A(b) read with Rule 17B alongside Section 119(2)(b) of the IT Act manifests that the Commissioner of Income Tax being empowered by virtue of Circular F.No.197/639/2024-ITA-I, dated 18.11.2024 issued by the Central Board of Direct Taxes can admit an application or claim for exemption, deduction, refund or any other relief even after the expiry of the period specified to make such claim or such application. By condoning the delay the same could be dealt with on merit.



7.1. Such power is apparently hedged with condition to consider “genuine hardship”. Thus it is unambiguous that in case of genuine hardship faced by the assessee, the Commissioner of Income Tax is authorised to consider application after expiry of the period specified for filing Audit Report in Form 10B in terms of Section 12A read with Rule 17B.

7.2. Citing pandemic situation and extension of period of limitation by the Hon’ble Supreme Court exercising *suo motu* power with respect to general and special laws for compliance of statutory requirement by litigants in view of difficulty faced by them due to shutdown imposed by the Government, the petitioner approached the Authority concerned by making an application dated 03.12.2024 with a prayer to condone the delay in filing the Audit Report in Form 10B along with return of income under Section 139 of the IT Act. It is also apprised by the petitioner before the Commissioner of Income Tax that due to this pandemic situation and as per instructions issued by the Government of Odisha with regard to shutdown and restricted movement, the assessee has been functioning its administrative office with limited staff, which caused the delay in submission of Audit Report and return of income within the period specified.

7.3. A Division Bench of this Court in *Basanti Shial Vrs. Proper Officer*, (2022) 106 GSTR 419 = 2022 SCC OnLine



Ori 4150 took cognizance of pandemic situation as a good and sufficient ground for condonation of delay. The Court proceeded to observe as follows:

- “8. From the above narration of facts, it is apparent that the period of three months from the date of communication of order sought to be appealed against got lapsed during period when the effect of COVID-19 virus was at its peak. Noteworthy here to refresh that the lock-down was imposed on March 24, 2020 and there was impediment for the petitioner to file the appeal on or before June 5, 2020.
9. The Hon’ble Supreme Court of India In re: Cognizance for Extension of Limitation, Suo Motu Writ Petition (Civil) No. 3/2020 [2020 SCC OnLine SC 343 = (2020) 19 SCC 10] vide Order dated 23.03.2020 considering the challenge faced by the country on account of COVID-19 Virus and resultant difficulties that would be faced by litigants across the country in filing their petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Law (both Central and/or State), directed as follows:

‘To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th



March 2020 till further order/s to be passed by this Court in present proceedings.

We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities.

This order may be brought to the notice of all High Courts for being communicated to all subordinate Courts/Tribunals within their respective jurisdiction.'

10. *This Court considering gravity of situation, vide Order dated May 5, 2020 in the matter of Bijaya Kumar Ragada Vrs. State of Odisha, W. P. (C) No. 9095 of 2020, observed as follows:*

'2. Lock-down phase 3.0 throughout the country for two weeks with effect from May 4, 2020 is in currency now. Novel Corona Virus (COVID-19) has infected more than 46,000 persons so far across the country. The virus, Novel as it is, in absence of vaccine and medication to arrest its spread, declares with pride 'Hide from me to be safe' and 'Keep distance from my carrier to be alive'. The honourable Prime Minister of India and honourable Chief Minister of our State have taken well conceived, well thought of, justly considered, tough and hard steps to contain the crisis arising out of the virus.

3. Staying at home to be safe and maintaining social distance are the only ways to check spread of the virus. India countries cross sections of people of various religion, faith,



cast, creed and colour. Law abidingness, however, has never been a natural habit of a part of the population. Irresponsibility is writ large when it comes to conforming to certain sets of discipline and order. In such a situation, locking down the entire country to keep the people safe was probably the only remedy available, though outcome of a very tough and difficult decision. We, therefore, are one in our view that executive Government is best fitted and best suited to contain the crisis arising out of the virus in its own novel and extraordinary way, provided everything is done within the constitutional framework and there is proper co- ordination among the implementing agencies.

- 4. Locking down the entire country was the outcome of a tough decision in fact. Unlocking the country is going to be more tough and a difficult responsibility. In the process, however, the courts' work throughout the country has suffered and consequently the litigants have been suffering.*
- 5. On the face of the crisis, we are sincerely concerned with the plight of the citizens and the litigants, majority of whom in our State are poor. They are not in a position to come to the court in such a situation to seek legal remedies. We also do not want rush of litigants in the courts in contravention of the 'social distancing' discipline.*
- 6. For the consequential lock down due to COVID-19 in three phases including the present one,*



working of this court, other subordinate courts as well as judicial and quasi-judicial authorities working under the superintendence of this court, has been affected to a great extent. The situation has resulted in hardship for the litigants and ordinary citizens to approach the court of law to take recourse to legal remedies. With a view to ensure that the litigants and citizens do not suffer on account of their inability to approach the court of law, we propose to invoke our plenary power under article 226 and power of superintendence under article 227 of the Constitution of India, our inherent power over the criminal matters under Section 482, Cr.P.C., our power of superintendence over criminal courts under Section 483, Cr.P.C. and our inherent power over the civil matters under Section 151 of the C.P.C.

7. *We do not see a fathomable end to the present crisis, but we hope that, by the end of the ensuing summer vacation of this court as well as the subordinate judiciary of the State, the situation shall be normal or at least near to normal. Keeping such hope in mind, in exercise of our power under articles 226 and 227 of the Constitution of India read with sections 482 and 483, Cr.P.C. and Section 151 of the Code of Civil Procedure, we issue the following directions to at least contain the plight of the litigants and non-litigants.*



- (xi) *That it is further directed that if the Government of Odisha and/or any of its Department and/or functionaries, Central Government and/or its Departments or functionaries or any public sector undertakings or any public or private companies or any firm or any individual or person is/are, by the order of this court or any court subordinate to it or the Tribunals, required to do a particular thing or carry out certain direction in a particular manner in a time frame, which expired or is going to expire at any time, during the period of lock down or the extended lock down, time for compliance of such order shall stand extended up to 18th June 2020, unless specifically directed otherwise.’ ***”*

Aforesaid arrangement made vide Order dated May 5, 2020 in Bijaya Kumar Ragada Vrs. State of Odisha, W.P.(C) No. 9095 of 2020 was being extended on various dates and vide order dated November 16, 2020 this court observed as follows :

- “3. The aforesaid order was extended subsequently on June 11, 2020 till July 15, 2020 and thereafter on July 15, 2020 the said protections were extended till August 31, 2020 and on August 31, 2020 the protection was extended up to October 15, 2020.*

- 5. In view of the above, protection granted by this court vide aforesaid order dated May 5, 2020*



passed in this case in sub-paras (i) to (xii) of para 7 is extended up to November 25, 2020 except to the extends with the modification specifically made.

Put up this matter on November 25, 2020.'

11. *The judgment/order as referred to above indicates that the extensions have been granted on account of various difficulties faced on account of the COVID-19 pandemic. The extensions apply to both judicial and quasi-judicial proceedings. The term 'proceedings' being not defined, the same may be understood in the light of interpretations put upon by different courts. Suffice it to refer to Commander Coast Guard Region (East), Fort St. George, Chennai-9 Vrs. O. Konavalov, O.S.A. No. 309 and 350 of 2000, decided on January 10, 2001, reported in (2001) SCC OnLine Mad 28 = MANU/TN/0029/2001 = (2001) 1 MLJ 420 wherein the honourable Madras High Court after noticing that the term 'proceeding' being not defined in the General Clauses Act, referred to Lexicons and observed as follows :*

'The court is of the considered view that the term 'proceeding' would only mean a legal process taken to enforce the rights.'

12. *Understanding the expression 'proceeding' in the aforesaid perspective, it may also be noteworthy to refer to clarification issued from the Commissionerate of CT&GST, Odisha (At Cuttack) vide Letter No. 8434-CCT- REV-REV-0130-2021/CT, dated July 26, 2021 which is to the following effect :*



'I am directed to attach herewith the clarification issued by CBIC regarding extension of limitation under GST law in terms of the honourable Supreme Court order dated April 27, 2021. The circle heads are advised to circulate the order to all proper officers under their jurisdiction and advise them to dispose of proceedings in various stages as per the clarification. Range heads are advised to conduct a meeting to explain the various issues covered in the clarification, in case of any doubts amongst the circle/proper officers.'

13. *The afore-mentioned attached document to the Letter of the Commissionerate of CT&GST, being File No. CBIC-20006/10/2021, dated July 20, 2021 of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, GST Policy Wing clarified as follows :*

*‘****

- 2.1 *The extract of the honourable Supreme order dated 27th April 2021 is reproduced below for reference :*

'We, therefore, restore the order dated March 23, 2020 and in continuation of the order dated March 8, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders. It is further clarified that the period from March 14, 2021 till further orders 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.

We have passed this order in exercise of our powers under article 142 read with article 141 of the Constitution of India. Hence it shall be a binding order within the meaning of article 141 on all courts/Tribunals and authorities.'

- 2.2 The matter of extension of period of limitation under Section 168A of the CGST Act, 2017 was deliberated in the 43rd Meeting of GST Council. Council, while providing various relaxations in the compliances for taxpayers, also recommended that wherever the timelines for actions have been extended by the honourable Supreme Court, the same would apply.*
- 3. Accordingly, legal opinion was solicited regarding applicability of the order of the honourable Supreme Court to the limitations of timelines under GST law. The matter has been examined on the basis of the legal opinion received in the matter. The following is observed as per the legal opinion :*
 - (i) The extension granted by the honourable Supreme Court order applies only to quasi-judicial and judicial matters*



relating to petitions/ applications/suits/ appeals/all other proceedings. All other proceedings should be understood in the nature of the earlier used expressions but can be quasi-judicial proceedings. The honourable Supreme Court has stepped into to grant extensions only with reference to judicial and quasi-judicial proceedings in the nature of appeals/suits/ petitions, etc., and has not extended it to every action or proceeding under the CGST Act.

- (ii) For the purpose of counting the period(s) of limitation for filing of appeals before any appellate authority under the GST law, the limitation stands extended till further orders as ordered by the honourable Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of 2020 vide order dated 27th April 2021. Thus, as on date, the orders of the honourable Supreme Court apply to appeals, reviews, revisions, etc., and not to original adjudication.*
- (iii) Various orders and extensions passed by the honourable Supreme Court would apply only to acts and actions which are in nature of judicial, including quasi-judicial exercise of power and discretion. Even under this category, the honourable Supreme Court order, applies only to a lis which needs to be pursued within a time frame fixed by the respective statutes.*



- (iv) *Wherever proceedings are pending, judicial or quasi-judicial which requires to be heard and disposed off, cannot come to a standstill by virtue of these extension orders. Those cases need to be adjudicated or disposed off either physically or through the virtual mode based on the prevailing policies and practices besides instructions if any.*
 - (v) *The following actions such as scrutiny of returns, issuance of summons, search, enquiry or investigations and even consequential arrest in accordance with GST law would not be covered by the judgment of the honourable Supreme Court.*
 - (vi) *As regards issuance of show-cause notice, granting time for replies and passing orders, the present orders of the honourable Supreme Court may not cover them even though they are quasi-judicial proceedings as the same has only been made applicable to matters relating to petitions/applications/suits, etc.*
4. *On the basis of the legal opinion, it is hereby clarified that various actions/compliances under GST can be broadly categorised as follows :*
- (a) *Proceedings that need to be initiated or compliances that need to be done by the taxpayers :*



These actions would continue to be governed only by the statutory mechanism and time-limit provided/ extensions granted under the statute itself. Various orders of the honourable Supreme Court would not apply to the said proceedings/compliances on part of the taxpayers.

(b) Quasi-judicial proceedings by tax authorities :

The tax authorities can continue to hear and dispose off proceedings where they are performing the functions as quasi-judicial authority. This may, inter alia, include disposal of application for refund, application for revocation of cancellation of registration, adjudication proceedings of demand notices, etc.

Similarly, appeals which are filed and are pending, can continue to be heard and disposed off and the same will be governed by those extensions of time granted by the statutes or notifications, if any.

(c) Appeals by taxpayers/tax authorities against any quasi-judicial order :

Wherever any appeal is required to be filed before Joint/Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any



quasi-judicial order or where a proceeding for revision or rectification of any order is required to be undertaken, the timeline for the same would stand extended as per the honourable Supreme Court's order.

5. *In other words, the extension of timelines granted by honourable Supreme Court vide its order dated April 27, 2021 is applicable in respect of any appeal which is required to be filed before Joint/Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where proceeding for revision or rectification of any order is required to be undertaken, and is not applicable to any other proceedings under GST laws.*
6. *It is requested that suitable trade notices may be issued to publicize the contents of this circular.'*
14. *The clarification as issued by the Central Government and adopted by the State Government seems to be gesture of pragmatic approach to mitigate hardship of concerned during the unforeseen pandemic. When the OGST Act was enacted in 2017, in order to tide the situation like force majeure over, appropriate legislation was not in place. However, conceiving the gravity of circumstances that prevailed over entire world and visualizing insurmountable difficulties faced by human beings, new provisions by way of*



amendment to the OGST Act have been inserted in tune with the provisions of the Taxation and other Laws (Relaxation of Certain Provisions) Ordinance, 2020 and the Taxation and other Laws (Relaxation of Certain Provisions) Act, 2020. Section 168A thereof was first inserted with effect from March 31, 2020 by way of promulgation of the Odisha Goods and Services Tax (Amendment) Ordinance, 2020 (Odisha Ordinance No. 5 of 2020) by the Governor of Odisha on June 9, 2020 vide Law Department Notification No. 5278-I-Legis-22/2020/L, dated June 11, 2020, published in the Odisha Gazette Extraordinary No. 856, dated June 11, 2020 and subsequently the same has been enacted as the Odisha Goods and Services Tax (Amendment) Act, 2020 (Odisha Act 5 of 2020) and was given effect from March 31, 2020.

16. *As noticed above the Central Government as also the State Government in line with the judgment of the honourable Supreme Court have issued orders/ notifications/circulars giving relaxation to the taxpayers for various compliances under the GST laws. The honourable Supreme Court disposed of Cognizance for Extension of Limitation, In re, Suo Motu Writ Petition (Civil) No. 3/2020 on March 8, 2021 reported in (2021) 432 ITR 206 (SC) = (2021) 5 SCC 452 = (2021) 3 SCC (Civ) 40 = (2021) 2 SCC (Cri) 615 = (2021) 2 SCC (L&S) 50 with the following observations and directions (pages 208 and 209 in 432 ITR) :*

- ‘1. *Due to the onset of the COVID-19 pandemic, this court took suo motu cognizance of the situation arising from difficulties that might be*



faced by the litigants across the country in filing petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central or State). By an order dated March 27, 2020 (sic March 23, 2020 (Cognizance for Extension of Limitation, In re (2020) 424 ITR 314 (SC) = (2020) 19 SCC 10 = (2020) SCC OnLine SC 343) this court extended the period of limitation prescribed under the general law or special laws whether compoundable or not with effect from March 15, 2020 till further orders. The order dated March 15, 2020 was extended from time to time. Though, we have not seen the end of the pandemic, there is considerable improvement. The lockdown has been lifted and the country is returning to normalcy. Almost all the courts and Tribunals are functioning either physically or by virtual mode. We are of the opinion that the order dated March 15, 2020 has served its purpose and in view of the changing scenario relating to the pandemic, the extension of limitation should come to an end.

2. We have considered the suggestions of the learned Attorney General for India regarding the future course of action. We deem it appropriate to issue the following directions :

2.1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from March 15, 2020 till March 14, 2021 shall stand excluded. Consequently, the



balance period of limitation remaining as on March 15, 2020, if any, shall become available with effect from March 15, 2021.

2.2. *In cases where the limitation would have expired during the period between March 15, 2020 till March 14, 2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from March 15, 2021. In the event the actual balance period of limitation remaining, with effect from March 15, 2021, is greater than 90 days, that longer period shall apply.*

2.3. *The period from March 15, 2020 till March 14, 2021 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.*

2.4. *The Government of India shall amend the guidelines for containment zones, to state :*

*‘Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements.’ ***”*



7.4. In *Atlas PVC Pipes Limited Vrs. State of Odisha*, (2022) 106 GSTR 433 (Ori) = 2022 SCC OnLine Ori 2182 it has been stated thus:

“6.2. Accepting notice on behalf of the opposite parties, namely the Commissioner of CT & GST, the Joint Commissioner of State Tax (Appeal), CT & GST Territorial Range, Cuttack-I and CT & GST Officer, Cuttack-I Central Circle, Mr. Mishra, learned Additional Standing Counsel, therefore, has made fair admission of the fact that the defect as pointed out by the CT & GST Organisation, being technical, the pedantic reason ascribed by the appellate authority cannot be countenanced on the face of decision of this court vide Order dated June 7, 2021 rendered in the case of *Shree Jagannath Traders Vrs. Commissioner of State Tax, Odisha, Cuttack* (2021) 94 GSTR 46 (Orissa), (W. P. (C) No. 15061 of 2021), wherein identical issue as that of the present case fell for consideration. This court framed the following question for adjudication (page 48 in 94 GSTR) :

‘The short point for determination in the present writ petition is whether the appellate authority under the OGST Act, 2017, was justified in dismissing the petitioner’s appeal, by the impugned order dated March 10, 2021, on the grounds that the appeal was not presented within the time prescribed under law.’

6.3. Answering the said question in the negative against the Revenue and in favour of the petitioner-appellant, this Court has made the following observation (page 49 in 94 GSTR) :



- ‘12. Considering that the explanation offered by the petitioner is a plausible and not an unreasonable one, especially in these COVID times, and further considering that a downloaded copy thereof was in fact submitted along with the appeal which was otherwise filed within time, this court is of the view that the mere delay in enclosing a certified copy of order appealed against along with the appeal should not come in the way of the petitioner's appeal for being considered on merits by the appellate authority. This is a case of substantial compliance and the interests of justice ought not to be constrained by a hyper technical view of the requirement that a certified copy of the order appealed against should be submitted within one week of the filing of the appeal. To repeat, in these covid times when there is a restricted functioning of courts and Tribunals in general, a more liberal approach is warranted in matters of condonation of delay, which cannot be said to be extraordinary.’
- 6.4. In this context this court also takes note of the decision vide Order dated June 10, 2021 passed in *Shree Udyog Vrs. Commissioner of State Tax*, (2022) 106 GSTR 414 (Orissa), (W.P.(C) No. 14887 of 2021), which is in similitude with that of *Shree Jagannath Traders* (2021) 94 GSTR 46 (Orissa).
- 6.5. It is *ex facie* clear from the copy of memo of appeal in form GST APL-01 vide annexure 2 series to the writ petition that having received



the Order passed under Section 74 of the OGST Act on January 20, 2021, the petitioner filed the appeal invoking Section 107 on April 21, 2021. The statutory prescribed period for preferring appeal fell within the extended period in consonance with Finance Department Notification bearing No. 13898-FIN-CT1-TAX-0002/2020 (SRO No. 129/2021), dated May 7, 2021 issued in exercise of powers under Section 168A of the OGST Act read with judgment(s)/order(s) of the honourable Supreme Court rendered in the case of In Re : Cognizance for Extension of Limitation, SMW(C) No. 3 of 2020.

- 6.6. It may be worthwhile to reiterate what has been noticed in the case of Smt. Basanti Shial v. Proper Officer, Additional CT & GST Officer, CT & GST Circle, Balasore, (2022) 106 GSTR 419 (Orissa), W.P.(C) No. 7490 of 2021 in connection with extension of period of limitation envisaged under Section 107. ****
- 6.7. The honourable Supreme Court of India in the case of Cognizance for Extension of Limitation, In re being Miscellaneous Application No. 21 of 2022 : In Miscellaneous Application No. 665 of 2021 in Suo Motu Writ Petition (C) No. 3 of 2020 with Miscellaneous Application No. 29 of 2022 in Miscellaneous Application No. 665 of 2021 in Suo Motu Writ Petition (C) No. 3 of 2020. Vide Order dated January 10, 2022 reported in (2022) 441 ITR 722 (SC) = (2022) 3 SCC 117 ; (2022) 1 SCC (Cri) 580 = (2022) SCC*



OnLine SC 27 pronounced as follows (pages 724 and 725 in 441 ITR) :

- ‘1. In March, 2020, this court took suo motu cognizance of the difficulties that might be faced by the litigants in filing petitions/ applications/ suits/ appeals/ all other quasi proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central and/or State) due to the outbreak of the covid19 pandemic.*
- 2. On March 23, 2020 Cognizance for Extension of Limitation, In re (2020) 424 ITR 314 (SC) = (2020) 19 SCC 10 = (2020) SCC OnLine SC 343, this court directed extension of the period of limitation in all proceedings before courts/Tribunals including this court with effect from March 15, 2020 till further orders. On March 8, 2021 (Cognizance for Extension of Limitation, In re (2021) 432 ITR 206 (SC)), the order dated March 23, 2020 was brought to an end, permitting the relaxation of period of limitation between March 15, 2020 and March 14, 2021. While doing so, it was made clear that the period of limitation would start from March 15, 2021.*
- 3. Thereafter, due to a second surge in COVID-19 cases, the Supreme Court Advocates on Record Association (SCAORA) intervened in the suo motu proceedings by filing Miscellaneous*



Application No. 665 of 2021 seeking restoration of the order dated March 23, 2020 relaxing limitation. The aforesaid Miscellaneous Application No. 665 of 2021 was disposed of by this court vide order dated September 23, 2021 (Cognizance for Extension of Limitation, In re, (2021) 438 ITR 296 (SC), wherein this court extended the period of limitation in all proceedings before the Courts/ Tribunals including this court with effect from March 15, 2020 till October 2, 2021.

4. *The present miscellaneous application has been filed by the Supreme Court Advocates-on Record Association in the context of the spread of the new variant of the COVID-19 and the drastic surge in the number of COVID cases across the country. Considering the prevailing conditions, the applicants are seeking the following:*

- (i) allow the present application by restoring the order dated March 23, 2020 passed by this honourable court in Suo Motu Writ Petition (C) No. 3 of 2020; and*
- (ii) allow the present application by restoring the order dated April 27, 2021 (Cognizance for Extension of Limitation, In re (2021) 226 Comp Cas 127 (SC)), passed by this honourable court in M. A. No. 665 of*



*2021 in Suo Motu Writ Petition (C)
No. 3 of 2020; and*

*(iii) pass such other order or orders as
this honourable court may deem fit
and proper.*

*5. 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 M. A. No. 21 of
2022 with the following directions :*

*(I) The order dated March 23, 2020 is
restored and in continuation of the
subsequent orders dated March 8,
2021, April 27, 2021 and September
23, 2021 it is directed that the
period from March 15, 2020 till
February 28, 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 October 3,
2021, if any, shall become available
with effect from March 1, 2022.*

*(III) In cases where the limitation would
have expired during the period
between March 15, 2020 till*



February 28, 2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from March 1, 2022. In the event the actual balance period of limitation remaining, with effect from March 1, 2022 is greater than 90 days, that longer period shall apply.

(IV) It is further clarified that the period from March 15, 2020 till February 28, 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. As prayed for by learned Senior Counsel, M.A. No. 29 of 2022 is dismissed as withdrawn.'

6.8. If present case is considered in the light of aforesaid order dated January 10, 2022 (Cognizance for Extension of Limitation, In re (2022) 441 ITR 722 (SC) of the honourable Apex Court, the petitioner is entitled to the



benefit of exclusion of limitation of seven days as stipulated in Rule 108(3) of the OGST Rules inasmuch as the certified copy of the order dated January 20, 2021 being obtained on May 21, 2022 and offered to the appellate authority on May 23, 2022 for consideration in connection with the defect pointed out vide notice dated May 13, 2022, the same fell well within the 90 days period granted by the honourable Supreme Court in the order dated January 10, 2022.”

7.5. The Hon’ble Supreme Court was pleased to clarify the position in the Order dated 9th May, 2022 *vide Babasaheb Raosaheb Kobarne Vrs. Pyrotek India Private Limited, 2022 LiveLaw (SC) 520 = 2022 SCC OnLine SC 1315*, which is to the following effect:

“4. Having heard the learned counsel appearing on behalf of the respective parties and having considered order dated 10.01.2022 passed by this Court in Miscellaneous Application No. 21/2022 by which the following order was passed and order dated 04.01.2022 passed by this Court in SLP (C) No. 17298/2021 in the case of Centaur Pharmaceuticals Pvt. Ltd. Vrs. Standford Laboratories Pvt. Ltd., the impugned order passed by the High Court is unsustainable. The operative portion of the order passed by this Court in Miscellaneous Application No. 21/2022 reads as under: ***

5. ***In that view of the matter, the period from 15.03.2020 till 28.02.2022 shall have to be***



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. The Commercial Courts Act, 2015 being a Special Law, the said order shall also be applicable with respect to the limitation prescribed under the Commercial Courts Act, 2015 also.

6. *In view of the above and for the reasons stated above and more particularly when the 120 days period expired in the present case on 09.05.2020 which was during the aforesaid period as prescribed by this Court in the aforesaid order, the High Court ought to have excluded the aforesaid period for the purpose of filing the written statement and ought to have permitted to take the written statement on record. The impugned judgment and order passed by the High Court refusing to condone the delay and take on record the written statement is hereby quashed and set aside. It is directed that the written statement, already filed, be taken on record and the same be considered in accordance with law.”*

7.6. This Court in the case of *Jyoti Ranjan Panda Vrs. Additional Commissioner of State Tax (Appeal), Balasore*, W.P.(C) No.41961 of 2021, in its Order dated 29.11.2022 made it clear as follows:

- “4. *The above position is not able to be denied by learned counsel for the Department. Indeed, the Supreme Court had extended the time periods for various kinds of cases where the limitation was going to expire during the period when COVID-19 was active. As explained in Babasaheb Raosaheb*



Kobarne Vrs. Pyrotek India Private Limited, 2022 LiveLaw (SC) 520, the extended period of limitation in terms of the above Supreme Court's orders was binding on all authorities."

7.7. Regard being had to the statement of the Hon'ble Supreme Court of India made in *East India Commercial Co. Ltd. Vrs. Collector of Customs, 1962 SCC OnLine SC 142 = (1963) 3 SCR 338 = AIR 1962 SC 1893*² that law enunciated by highest Court of the State is to be respected, the relevant portion of the reported judgment is extracted (SCC OnLine) hereunder:

"31. As we have already noticed in the earlier stage of the judgment, the notice issued by the respondent charges the appellants thus:

'One of the conditions of the special licence was that the goods would be utilised for consumption as raw material or accessories in the factory of the licence-holder and no part thereof would be sold to other parties, but in contravention of that condition the appellants sold a part of the goods imported to a third party; and as the goods had been caused to be issued by fraudulent misrepresentation, they were liable to be confiscated under Section 167(8) of the Sea Customs Act.'

Section 167(8) of the Sea Customs Act can be invoked only if an order issued under Section 3 of

² The principle enunciated by the Hon'ble Supreme Court of India in *East India Commercial Co. Ltd. Vrs. Collector of Customs, 1962 SCC OnLine SC 142 = (1963) 3 SCR 338 = AIR 1962 SC 1893* has been followed by this Court in *Chowhan Machinery Mart Vrs. State of Orissa, (2009) 19 VST 178 (Ori) = 2008 SCC OnLine Ori 596*.



the Act was infringed during the course of the import or export. The Division Bench of the High Court held that a contravention of a condition imposed by a licence issued under the Act is not an offence under Section 5 of the Act. **This raises the question whether an Administrative Tribunal can ignore the law declared by the highest court in the State and initiate proceedings in direct violation of the law so declared. Under Article 215, every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. Under Article 226, it has a plenary power to issue orders or writs for the enforcement of the fundamental rights and for any other purpose to any person or authority, including in appropriate cases any Government, within its territorial jurisdiction. Under Article 227 it has jurisdiction over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. It would be anomalous to suggest that a tribunal over which the High Court has superintendence can ignore the law declared by that court and start proceedings in direct violation of it. If a tribunal can do so, all the subordinate courts can equally do so, for there is no specific provision, just like in the case of Supreme Court, making the law declared by the High Court binding on subordinate Courts. It is implicit in the power of supervision conferred on a superior tribunal that all the tribunals subject to its supervision should conform to the law laid down by it. Such obedience would also be conducive to their smooth working : otherwise, there would**



be confusion in the administration of law and respect for law would irretrievably suffer. We, therefore, hold that the law declared by the highest court in the State is binding on authorities or tribunals under its superintendence, and that they cannot ignore it either in initiating a proceeding or deciding on the rights involved in such a proceeding. If that be so, the notice issued by the authority signifying the launching of proceedings contrary to the law laid down by the High Court would be invalid and the proceedings themselves would be without jurisdiction.”

7.8. The decisions referred to *supra* make it abundantly clear that the pandemic situation prevailed over since March, 2020 till February, 2022 and COVID-19 virus impacted the litigants largely by preventing them from complying with the statutory requirement. By virtue of intervention of the Court, the stipulation as to the statutory period has been extended from time to time.

8. In order to appreciate the reasons assigned for rejection of application for condonation of delay in filing the Audit Report in Form 10B by the Commissioner of Income Tax (Exemption), it may be apposite to refer to paragraph-3 of the said Circular No.9/2015 [F. No.312/22/2015-OT] dated 09.06.2015 issued by the Government of India, Ministry of Finance Department of Revenue, Central Board of Direct Taxes, which stood thus:



“3. No condonation application for claim of refund/loss shall be entertained beyond six years from the end of the Assessment Year for which such application/claim is made. This limit of six years shall be applicable to all authorities having powers to condone the delay as per the above prescribed monetary limits, including the Board. A condonation application should be disposed of within six months from the end of the month in which the application is received by the competent authority, as far as possible.”

8.1. Be that as it may, said Circular has been “superseded” by virtue of Circular No.16/2024 [F. No.197/639/2024-ITA-I], dated 18.11.2024 issued by the Central Board of Direct Taxes, which reads as follows:

*“In **supersession of all earlier Circulars/ Instructions** issued by the Central Board of Direct Taxes (‘CBDT’) from time to time to deal with the applications for condonation of delay in filing Form 9A/10/**10B**/10BB for Assessment Year 2018-19 and **subsequent Assessment Years**, the CBDT in exercise of the powers conferred under Section 119(2)(b) of the Income Tax Act (‘the Act’), authorizes:-*

1.1. *the Pr. Commissioner of Income Tax (‘Pr.CsIT’)/ **Commissioners of Income Tax (‘CsIT’)** to admit and deal with applications for condonation of delay in filing Form No.9A/10/**10B**/10BB for Assessment Year 2018-19 and subsequent Assessment Years where there is a delay of upto 365 days.*



- 1.2. ***the Pr. Chief Commissioners of Income Tax ('Pr. CsIT')/ Chief Commissioner of Income Tax ('CsIT')/ Director Generals of Income Tax ('DGsIT') to admit and deal with applications for condonation of delay in filing Form No.9A/10/10B/10BB for Assessment Year 2018-19 and subsequent Assessment Years where there is a delay of more than 365 days.***
2. *The Pr. CCsIT/CCsIT/Pr. CsIT/CsIT while entertaining such applications for condonation of delay in filing Form No.9A/10/10B/10BB, shall satisfy themselves that the applicant **was prevented by reasonable cause** from filing such Forms before the expiry of the time allowed and the case is of genuine hardship on merits.*
- 2.1. *Further, in respect of Form No.10, the Pr. CCsIT/CCsIT/Pr. CsIT/CsIT as the case may be, shall also satisfy themselves that the amount accumulated or set apart has been invested or deposited in any one or more of the forms or modes specified in sub-section (5) of Section 11 of the Act.*
3. ***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.*



4. ***The delegation of powers, as per para 1.1. & 1.2. of this Circular shall cover all such applications for condonation of delay under Section 119(2)(b) of the Act which are pending as on date of issue of this Circular.***

5. *Hindi version to follow.”*

8.2. The Circular dated 18.11.2024 as referred to above depicts that it empowers the Authorities *inter alia* Commissioner of Income Tax to admit and deal with application for condonation of delay in filing Audit Report in Form 10B with respect to the Assessment Year 2018-19 and “subsequent Assessment Years” where there is delay of up to 365 days in the event the petitioner demonstrates that it was prevented for reasonable cause from filing such Report before the expiry of the time allowed and the case is of genuine hardship on merits. Paragraph 3 of said Circular dated 18.11.2024 further clarifies that no application for condonation of delay in filing of Form No.10B shall be entertained beyond three years from the end of the Assessment Year for which such application is made and 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 the Circular.

8.3. It is not in dispute that the petitioner was required to submit the Audit Report in Form 10B pertaining to the



Assessment Year 2020-21 on or before 15.01.2021. The end of said Assessment Year is 31.03.2021. Said application being filed with a delay of seventy-six days, in view of paragraph 1.1 read with paragraph 4 of aforementioned Circular the Commissioner of Income Tax is the competent authority to consider the merit of application for condonation of delay in filing Audit Report and in terms of paragraph 3 of Circular dated 18.11.2024 three years period of limitation would lapse on 31.03.2024.

8.4. Despite the fact that the petitioner demonstrated the COVID-19 pandemic prevailed during 2020-22, which is apparent from the decisions cited *supra* as “reasonable cause” that prevented it from complying with the statutory requirement and by virtue of intervention of the Hon’ble Supreme Court of India *suo motu*, the Audit Report besides Return under Section 139 of the IT Act was submitted, the Commissioner of Income Tax referred to Circular No.9/2015, dated 09.06.2015, and omitted to take into consideration Circular dated 18.11.2024, to deny relief. This Court finds force in the submission of Sri Chitrasen Parida, learned Advocate for the petitioner that after the Circular dated 09.06.2015 being superseded, it ceased to have operation. The Commissioner of Income Tax apparently proceeded erroneously by placing reliance on Circular dated



09.06.2015. The application for condonation of delay in filing Audit Report should have been admitted in terms of Circular dated 18.11.2024 and decided. The Order dated 17.02.2025, thus, does suffer from illegality inasmuch as the Circular dated 09.06.2015 has been superseded by the later Circular. On the date of passing Order refusing to condone the delay, said Circular dated 09.06.2015 did cease to exist. Therefore, the impugned order of the Commissioner of Income Tax (Exemption) cannot withstand judicial scrutiny.

8.5. The taxing authorities are supposed to be acquainted with the law enunciated by the Court. Authoritative pronouncement has been made in the case of *Bhagirath Agarwal and Brothers Vrs. Sales Tax Officer, Ganjam-I Circle, (1975) 36 STC 566 (Ori)*, which may be quoted hereunder:

“3. Law is no longer in doubt that if the supply was under compulsory levy then it is not exigible to sales tax : see *Union of India Vrs. Sales Tax Officer, Union of India Vrs. State of Odisha, (1975) 36 STC 557 = (1971) CWR 693*. The same view had been taken by a Bench of this Court as early as 1961 in *Cement Ltd. Vrs. State of Odisha, (1961) 12 STC 205*. **The Assessing Authority was, under the law, bound to refer to our decisions, and if he was not inclined to follow them, to distinguish them on facts.** Without understanding anything he simply



disposed of the matter by overruling the objection of the assessee.

6. *It may be noted for future that in an endowment case, Bhimsen Dixit Vrs. B.K. Mishra, Commissioner of Hindu Religious Endowments, Orissa, ILR (1971) Cut 987, this Court has held that the Commissioner of Endowments was guilty of contempt for not having followed the decision of this Court though the matter was brought to his notice. **We clarify the position that subordinate authorities are bound to acquaint themselves with the decisions of this Court and in case these authorities are not followed, in appropriate cases they are liable to be proceeded with for contempt.***

- 8.6. This Court in *State of Odisha Vrs. Sreepati Ranjan Dash*, 2023 SCC OnLine Ori 6207 having taken cognizance of effect of the word “supersession” found place in a legal document, observed as follows:

“53. The word “supersede” in law, vide *Black’s Law Dictionary*, 5th Edition, as referred to in *Calcutta Municipal Corporation Vrs. Pawan Kumar Saraf*, (1999) 2 SCC 400 = (1999) 1 SCR 74, means “obliterate, set aside, annul, replace, make void or inefficacious or useless, repeal”. The purport of “supersession” has been succinctly explained in *Union of India Vrs. Glaxo India Ltd.*, (2011) 6 SCC 668 = (2011) 4 SCR 50:



“39. The impugned notification uses the expression “supersession” of the earlier notification. Therefore, the first question that requires to be considered and answered by us is, what is the meaning of the expression ‘supersession’ and what is its effect. Webster’s Third New International Dictionary defines the word ‘supersession’ to mean ‘the state of being superseded’, ‘removal’ and ‘replacement’. P. Ramanatha Aiyar’s Advanced Law Lexicon defines ‘superseded’ as ‘set aside’ and ‘replaced by’. The view of this Court in some of the decisions is that the expression ‘supersession’ has to be understood to amount ‘to repeal’ and when notification is repealed, the provisions of Section 6 of the General Clauses Act would not apply to notifications.

42. In *State of Orissa Vrs. Titaghur Paper Mills Company Ltd.*, 1985 Supp SCC 280 : AIR 1985 SC 1293, the specific question whether on ‘supersession’ of a notification, the liability to tax for a period prior to the supersession was wiped out or not, directly arose and was considered. This Court came to the conclusion that the previous liability to tax for a period prior to the supersession was not wiped out. In our view, the results that flow from changes in the law by way of amendment, ‘repeal’, ‘substitution’ or ‘supersession’ on the earlier rights and obligations cannot be decided on any set formulae. It is essentially a matter of construction and depends on the intendment of the law as could be gathered from the



provisions in accordance with accepted cannons of construction.

45. *In Syed Mustafa Mohamed Ghouse Vrs. State of Mysore, (1963) 1 Cri LJ 372 (Mys), the Sugar (Movement Control) Order, 1959 of 06.11.1959 was passed in supersession of the Sugar (Movement Control) Order, 1959, dated 27.07.1959. It was held that in law 'supersession' has not the same effect as repeal and proceedings of a superseded order can be commenced. In R.S. Anand Behari Lal Vrs. United Provinces Govt., AIR 1955 NUC 2769 (All), it was held that in case of supersession of a notification, the objections and liabilities accrued and incurred under the earlier notification remain unaffected, since the supersession will be effected from the date of second notification and not retrospectively, so as to abrogate the earlier notification from the date of its commencement.'*
54. *The distinction between the word "substitution" and the term "supersession" can well be deduced from the following dicta of the Hon'ble Supreme Court of India in the case of State of Maharashtra Vrs. Central Provinces Manganese Ore Co. Ltd., (1977) 1 SCC 643 = (1977) 39 STC 340 (SC):*

'The following passage was also cited from Koteswar Koteswar Vittal Kamath Vrs. K. Rangappa Balica & Co., (1969) 1 SCC 255 = AIR 1969 SC 504 (at page 509) = (1969) 3 SCR 40 (at p. 47):

'Learned counsel for the respondent, however, urged that the Prohibition Order of 1119 cannot, in any



case, be held to have continued after 8 March, 1950, if the principle laid down by this Court in Firm A.T.B. Mehtab Majid & Co. Vrs. State of Madras, 1963 Supp (2) SCR 435 = AIR 1963 SC 928 is applied. In that case, Rule 16 of the Madras General Sales Tax (Turnover and Assessment) Rules, 1939, was impugned. A new Rule 16 was substituted for the old Rule 16 by publication on September 7, 1955, and this new rule was to be effective from 1 April, 1955. The Court held that the new Rule 16(2) was invalid because the provisions of that rule contravened the provisions of Article 304(a) of the Constitution. Thereupon, it was urged before the Court that, if the impugned rule be held to be invalid, the old Rule 16 gets revived, so that the tax assessed on the basis of that rule will be good. The Court rejected this submission by holding that:

‘Once the old rule has been substituted by the new rule, it ceases to exist and it does not automatically get revived when the new rule is held to be invalid’.

On that analogy, it was argued that, if we hold that the Prohibition Order of 1950 was invalid, the previous Prohibition Order of 1119 cannot be held to be revived. This argument ignores the distinction between supersession of a rule, and substitution of a rule. In the case of 1963 Supp (2) SCR 435 = AIR 1963 SC 928 (supra), the new Rule 16 was substituted for the old Rule 16. The process of substitution consists of two steps. First, the old rule is made to cease to exist, and, next, the new rule is brought into existence in its place. Even if the new rule be invalid, the first step of the old rule ceasing to exist comes into effect and it was for this reason



that the Court held that, on declaration of the new rule as invalid, the old rule could not be held to be revived’.

In the above mentioned passage, this Court merely explained the argument which was accepted in the case of firm A.T.B. Mehtab Majid & Co. Vrs. State of Madras 1963 Supp (2) SCR 435 = AIR 1963 SC 928). After doing so, it distinguished the facts in Koteswar’s case (supra), relating to an alleged substitution of one Prohibition Order by a subsequent order which was found to be invalid. It recorded its conclusion as follows (at p. 509):

‘In the case before us, there was no substitution of the Prohibition Order of 1950 for the Prohibition Order of 1119. The Prohibition Order of 1950 was promulgated independently of the Prohibition Order of 1119, and because of the provisions of law it would have had the effect of making the Prohibition Order of 1119 inoperative if it had been a valid order. If the Prohibition Order of 1950 is found-to be void ab initio, it could never make the Prohibition Order of 1119 inoperative’.

The argument before us is that since the word ‘substituted’ is used in the amending Act of 1949, it necessarily follows that the process embraces two steps. One of repeal and another of the new enactment. But, this argument is basically different from the argument which prevailed in Koteswar’s case (supra) where a distinction was drawn between a ‘substitution’ and ‘supersession’. **It is true that, as the term substitution was not used there, the old rule was not held to have been repealed.** Nevertheless, the real basis of that



*decision was that what was called supersession was void ab initio so that the law remained what it would have been if no such legislative process had taken place at all. **It was held that the void and inoperative legislative process did not affect the validity of the pre-existing rule.** And, this is precisely what is contended or by the State before us.’ ***”*

- 8.7. There is no doubt that “everyday of delay needs to be explained with cogent evidences” as per reference made by the Commissioner of Income Tax to *Ranka Vrs. Rewa Coalfields Ltd.*, AIR 1962 SC 362, nevertheless, instead of pedantic approach, pragmatic approach is preferred in the context of consideration of condonation of delay. It requires no evidence when the Hon’ble Supreme Court as also this Court recognized the insurmountable difficulties faced by litigants during the COVID pandemic during 2020-22. Thus, the Order dated 17.02.2025 of the Commissioner of Income Tax cannot be said to have been passed with rational application of mind.
- 8.8. Whereas the petitioner has assigned the reason for being prevented during 2021, the restricted movement declared by the State Government during pandemic situation is sufficient ground for taking into consideration as a factor for condonation of delay. Plausibility of reason that it was difficult for the petitioner to come down from Patnagarh in Bolangir district to Bhubaneswar during the said period should



have been appreciated by the Commissioner of Income Tax. The Parliament as also the State Legislature being conscious of such situation promulgated Ordinance(s) and introduced the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 to put in place device to meet exigencies during *force majeure*. Said Act enabled extension of statutory limitations in different statutes including the Income Tax Act and the Goods and Services Tax Act.

8.9. In terms of Circular dated 18.11.2024, the Income Tax Authorities *inter alia* Commissioner of Income Tax is required to ensure that:

- i. The assessee was prevented by “reasonable cause” from filing the return of income within the due date.
- ii. The case demonstrates “genuine hardship” on merits.
- iii. The authorities may direct the jurisdictional Assessing Officer to make necessary inquiries in accordance with the provisions of the Act to ensure that the application is dealt with on merits in accordance with the law.

8.10. The expression “reasonable cause” has been clarified by the Hon’ble Supreme Court in *Abdul Hakim Quraishi Vrs.*



State of Bihar, AIR 1961 SC 448 by stating that ‘reasonable’ implies intelligent care and deliberation, that is, the choice of a course which reason dictates. In *State of Madhya Pradesh Vrs. Ramswarup, (1977) 40 STC 613 (MP)* it has been observed that:

“REASONABLE CAUSE has not been defined under the Act. Dictionary meaning of “reasonable” is that which is agreeable to reason, not absurd, within the limits of reason. The expression “reasonable” therefore means rational, according to the dictates of reason and not excessive or immoderate. An act is reasonable when it is confirmable or agreeable to reason having regard to the facts of the particular case.”

8.11. The expression ‘reasonable grounds’ means something more than *prima facie* grounds. It contemplates substantial probable causes for believing that the fact exists. The reasonable belief contemplates existence of such facts and circumstances as are sufficient in themselves to justify satisfaction of the authority. [*Vide, Collector of Customs Vrs. Ahmadalieva Nodira, (2004) 3 SCC 549*].

8.12. In *B.M. Malani Vrs. CIT, (2008) 10 SCC 617 = (2008) 306 ITR 196 (SC)* the term “genuine hardship” has been explained in the following manner:

“16. The term “genuine” as per the New Collins Concise English Dictionary is defined as under:



'GENUINE means not fake or counterfeit, real, not pretending (not bogus or merely a ruse).'

17. *For interpretation of the aforementioned provision, the principle of purposive construction should be resorted to. Levy of interest is statutory in nature, inter alia, for recompensating the Revenue from loss suffered by non-deposit of tax by the assessee within the time specified therefor. The said principle should also be applied for the purpose of determining as to whether any hardship had been caused or not. **A genuine hardship would, inter alia, mean a genuine difficulty.** That per se would not lead to a conclusion that a person having large assets would never be in difficulty as he can sell those assets and pay the amount of interest levied.*
18. ***The ingredients of genuine hardship must be determined keeping in view the dictionary meaning thereof and the legal conspectus attending thereto.*** For the said purpose, another well-known principle, namely, a person cannot take advantage of his own wrong, may also have to be borne in mind. The said principle, it is conceded, has not been applied by the courts below in this case, but we may take note of a few precedents operating in the field to highlight the aforementioned proposition of law. [See *Priyanka Overseas (P) Ltd. Vrs. Union of India*, 1991 Supp (1) SCC 102 (SCC at pp. 122-23, para 39); *Union of India Vrs. Major General Madan Lal Yadav (Retd.)*, (1996) 4 SCC 127 (SCC at p. 142, paras 28-29); *Ashok Kapil Vrs. Sana Ullah*, (1996) 6 SCC 342 (SCC at p. 345, para 7); *Sushil Kumar Vrs. Rakesh Kumar*, (2003) 8 SCC 673



(SCC at p. 692, para 65, first sentence); *Kusheshwar Prasad Singh Vrs. State of Bihar*, (2007) 11 SCC 447 (SCC at pp. 451-52, paras 13-14 and 16).]

19. Thus, the said principle, in our opinion, should be applied even in a case of this nature. A statutory authority despite receipt of such a request could not have kept mum. It should have taken some action. It should have responded to the prayer of the appellant. **However, another principle should also be borne in mind, namely, that a statutory authority must act within the four corners of the statute. Indisputably, the Commissioner has the discretion not to accede to the request of the assessee, but that discretion must be judiciously exercised.** He has to arrive at a satisfaction that the three conditions laid down therein have been fulfilled before passing an order waiving interest.”

8.13. In *Sitaldas K. Motwani Vrs. Director-General of Income-tax*, 2009 SCC OnLine Bom 2195 = (2010) 323 ITR 223 (Bom) the following has been observed recognizing “genuine hardship”:

- “14. *** The Gujarat High Court in the case of *Gujarat Electric Co. Ltd. Vrs. CIT*, (2002) 255 ITR 396 (Guj), was pleased to hold as under (headnote):

‘The Board was not justified in rejecting the claim for refund on the ground that a case of genuine hardship was not made out by the petitioner and delay in claiming the relief was not satisfactorily explained, more particularly when the returns could not be filed in time due to the ill health of the officer



who was looking after the taxation matters of the petitioner.'

The Madras High Court in the case of R. Seshammal Vrs. ITO, (1999) 237 ITR 185, was pleased to observe as under (page 187) :

*'This is hardly the manner in which the State is expected to deal with the citizens, who in their anxiety to comply with all the requirements of the Act pay monies as advance tax to the State, even though the monies were not actually required to be paid by them and thereafter seek refund of the monies so paid by mistake after the proceedings under the Act are dropped by the authorities concerned. **The State is not entitled to plead the hypertechnical plea of limitation in such a situation to avoid return of the amounts.** Section 119 of the Act vests ample power in the Board to render justice in such a situation. The Board has acted arbitrarily in rejecting the petitioner's request for refund.'*

15. *The phrase "genuine hardship" used in Section 119(2)(b) should have been construed liberally even when the petitioner has complied with all the conditions mentioned in Circular dated October 12, 1993. **The Legislature has conferred the power to condone delay to enable the authorities to do substantive justice to the parties by disposing of the matters on the merits. The expression "genuine" has received a liberal meaning in view of the law laid down by the apex court referred to hereinabove and while considering this aspect, the authorities are expected to bear in mind that ordinarily the***



applicant, applying for condonation of delay does not stand to benefit by lodging its claim late. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned the highest that can happen is that a cause would be decided on the merits after hearing the parties. **When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred for the other side cannot claim to have a vested right in injustice being done because of a non-deliberate delay. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay.** In fact he runs a serious risk. The approach of the authorities should be justice oriented so as to advance the cause of justice. If refund is legitimately due to the applicant, mere delay should not defeat the claim for refund.”

8.14. The Bombay High Court in *Pankaj Kailash Agarwal Vrs. CIT*, (2024) 464 ITR 65 (Bom) = 2024 SCC OnLine Bom 1025 made following discussion:

“12. We would agree with Mr. Sarda that no assessee would stand to benefit by lodging its claim late. More so, in the case of the nature at hand, where the assessee would get tax advantage/benefit by way of deduction under Section 80-IC of the Act. Of course, there cannot be a straitjacket formula to determine what is “genuine hardship”. In our view,



certainly the fact that an assessee feels that he would be paying more tax if he does not get the advantage of deduction under Section 80-IC of the Act, that will be certainly a “genuine hardship”. It would be apposite to reproduce paragraph 4 of the judgment in *K.S. Bilawala Vrs. Pr. CIT*, (2024) 463 ITR 766 (Bom) = (2024) 158 taxmann.com 658 (Bom), which reads as under (para 5, page 768 of 463 ITR):

‘4. There cannot be a straitjacket formula to **determine what is genuine hardship**. In our view, certainly the fact that an assessee feels he has paid more tax than what he was liable to pay will certainly cause hardship and that will be certainly a ‘genuine hardship’. This court in *Optra Health Pvt. Ltd. Vrs. Addl. CIT*, (2024) 462 ITR 238 (Bom); 2023 SCC OnLine Bom 2843 = Writ Petition No. 15544 of 2023 dated December 19, 2023. In paragraph Nos. 9 and 10 held as under (page 241 of 462 ITR):

‘9. While considering the genuine hardship, the Principal Chief Commissioner of Income-tax was not expected to consider a solitary ground as to whether the assessee was prevented by any substantial cause from filing the corrections within a due time. Other factors also ought to have been taken into account. **The phrase “genuine hardship” used in Section 119(2)(b) of the Act should have been construed liberally. The Legislature has conferred the power to condone the delay to enable the authorities to do**



substantial justice to the parties by disposing of the matters on merits.

The expression “genuine” has received a liberal meaning in view of the law laid down by the apex court and while considering this aspect, the authorities are expected to bear in mind that ordinarily the applicant, applying for condonation of delay, does not stand to benefit by lodging erroneous returns. Refusing to condone the delay can result in a meritorious matter being thrown out at the very threshold and the cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties. **When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred, for the other side cannot claim to have vested right in injustice being done because of a non-deliberate action.** There is no presumption that a delay in correcting an error or responding to a notice of invalid return received under Section 139(9) of the Act is occasioned deliberately or on account of culpable negligence or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk. The approach of the authority should be justice-oriented so as to advance cause of justice. If the



case of an applicant is genuine, mere delay should not defeat the claim. We find support for this view in Sitaldas K. Motwani Vrs. Director General of Income-tax, (2010) 323 ITR 223 (Bom) = 2009 SCC OnLine Bom 2195, relied upon by Mr. Walve, where paragraph Nos. 13 to 17 read as under (page 227 of 323 ITR):

‘13. Having heard both the parties, we must observe that while considering the genuine hardship, respondent No. 1 was not expected to consider a solitary ground so as to whether the petitioner was prevented by any substantial cause from filing return within due time. Other factors detailed hereinbelow ought to have been taken into account.

*14. The apex court, in the case of B.M. Malani Vrs. CIT, (supra), has explained the term ‘genuine’ in following words (page 207 of 306 ITR):****

‘18. The ingredients of genuine hardship must be determined keeping in view the dictionary meaning thereof and the legal conspectus attending thereto. For the said purpose, another well-known principle, namely, a person cannot take advantage of his own wrong, may also have to be borne in mind.’



The Gujarat High Court in the case of Gujarat Electric Co. Ltd. Vrs. CIT, (2002) 255 ITR 396 (Guj) = 2001 SCC OnLine Guj 331, was pleased to hold as under (headnote):

‘The Board was not justified in rejecting the claim for refund on the ground that a case of genuine hardship was not made out by the petitioner and delay in claiming the relief was not satisfactorily explained, more particularly when the returns could not be filed in time due to the ill health of the officer who was looking after the taxation matters of the petitioner.’

The Madras High Court in the case of R. Seshammal Vrs. ITO, (1999) 237 ITR 185 (Mad) = 1998 SCC OnLine Mad 951, was pleased to observe as under (page 187 of 237 ITR):

‘This is hardly the manner in which the State is expected to deal with the citizens, who in their anxiety to comply with all the requirements of the Act pay monies as advance tax to the State, even though the monies were not actually required to



be paid by them and thereafter, seek refund of the monies so paid by mistake after the proceedings under the Act are dropped by the authorities concerned. **The State is not entitled to plead the hypertechnical plea of limitation in such a situation to avoid return of the amounts.** Section 119 of the Act vests ample power in the Board to render justice in such a situation. The Board has acted arbitrarily in rejecting the petitioner's request for refund.'

15. The phrase 'genuine hardship' used in Section 119(2)(b) should have been construed liberally even when the petitioner has complied with all the conditions mentioned in Circular dated October 12, 1993. The Legislature has conferred the power to condone delay to enable the authorities to do substantive justice to the parties by disposing of the matters on merit. **The expression 'genuine' has received a liberal meaning in view of the law laid down by the apex court referred to hereinabove and while considering this aspect, the authorities are expected to bear**



*in mind that ordinarily the applicant, applying for condonation of delay does not stand to benefit by lodging its claim late. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties. **When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.** The approach of the authorities should be justice-oriented so as to advance cause of justice. If refund is legitimately due to the applicant, mere delay should not defeat the claim for refund.*



16. *Whether the refund claim is correct and genuine, the authority must satisfy itself that the applicant has a prima facie correct and genuine claim, does not mean that the authority should examine the merits of the refund claim closely and come to a conclusion that the applicant's claim is bound to succeed. This would amount to prejudging the case on merits. All that the authority has to see is that on the face of it the person applying for refund after condonation of delay has a case which needs consideration and which is not bound to fail by virtue of some apparent defect. **At this stage, the authority is not expected to go deep into the niceties of law.** While determining whether refund claim is correct and genuine, the relevant consideration is whether on the evidence led, it was possible to arrive at the conclusion in question and not whether that was the only conclusion which could be arrived at on that evidence.*
17. *Having said so, turning to the facts of the matter giving rise to the present petition, we are satisfied that respondent No. 1 did not consider the prayer for condonation*



of delay in its proper perspective. As such, it needs consideration afresh.'

10. *This was followed by this court in Artist Tree (P.) Ltd. Vrs. CBDT, (2014) 369 ITR 691 (Bom) = 2014 SCC OnLine Bom 1801 = (2014) 52 taxmann.com 152 (Bom) relied upon by Mr. Walve, where paragraph Nos.19, 21 and 23 read as under (page 701 of 369 ITR):*

'19. The circumstance that the accounts were duly audited way back on September 14, 1997, is not a circumstance that can be held against the petitioner. This circumstance, on the contrary adds force to the explanation furnished by the petitioner that the delay in filing of returns was only on account of misplacement or the TDS certificates, which the petitioner was advised, has to be necessarily filed along with the return of income in view of the provisions contained in Section 139 of the said Act read along with the Income-tax Rules, 1962 and in particular the report in the prescribed forms of return of income then in vogue which required an assessee to attach the TDS certificates for the refund being claimed. The explanation furnished is that on account of shifting of registered office, it is possible that



*TDS certificates which may have been addressed to the earlier office, got misplaced. There is nothing counterfeit or bogus in the explanation offered. It cannot be said that the petitioner has obtained any undue advantage out of delay in filing of Income-tax returns. As observed in the case of Sitaldas K. Motwani Vrs. Director General of Income-tax, (2010) 323 ITR 223 (Bom) = 2009 SCC OnLine Bom 2195, there is no presumption that delay is occasioned deliberately or on account of culpable negligence or on account of mala fides. It cannot be said that in this case the petitioner has benefited by resorting to delay. **In any case when substantial justice and technical consideration are pitted against each other, the cause of substantial justice deserves to prevail without in any manner doing violence to the language of the Act. ******

8.15.As it appears the Commissioner of Income Tax proceeded with closed mind and his approach to the issue at hand has been misdirected as if Circular dated 09.06.2015 is still in vogue. The reason ascribed by the petitioner before the Authority is that it could not come down from Patnagarh in the district of Bolangir to



Bhubaneswar to consult Chartered Accountant and the Organisation was functioning with limited staff strength during pandemic. Such factors would be embraced within the fold of “genuine hardship” so as to entitle it to have discretion utilised in its favour.

8.16. The Commissioner of Income Tax has misplaced the ratio of judgment rendered by the Hon’ble Supreme Court in *Union of India Vrs. Dilip Kumar & Co., (2018) 9 SCC 1* for disallowing the exemption claimed by the petitioner, Charitable trust, under Section 12A of the IT Act read with Rule 17B of the IT Rules. The cause shown by the petitioner for delay in filing Audit Report in Form 10B was “*force majeure*”— Covid-19 pandemic.

8.17. This Court is not oblivious of the clarification of the Central Government to treat COVID-19 pandemic as *force majeure*. The issue of Office Memorandum bearing No.F.18/4/2020-PPD, dated 19.02.2020 is sufficient indicator for necessity to invoke *force majeure clause*. The Office Memorandum stands thus:

“No.F.18/4/2020-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy
Division Room No.512, Lok Nayak Bhavan, New Delhi
dated the 19th February, 2020.



Office Memorandum

Subject: Force Majeure Clause (FMC)

Attention is invited to para 9.7.7 of the 'Manual for Procurement of Goods, 2017' issued by this Department, which is reproduced as under:

A Force Majeure (FM) means extraordinary events or circumstance beyond human control such as an event described as an act of God (like a natural calamity) or events such as a war, strike, riots, crimes (but not including negligence or wrong-doing, predictable! seasonal rain and any other events specifically excluded in the clause). An FM clause in the contract frees both parties from contractual liability or obligation when prevented by such events from fulfilling their obligations under the contract. An FM clause does not excuse a party's non-performance entirely, but only suspends it for the duration of the FM. The firm has to give notice of FM as soon as it occurs and it cannot be claimed ex-post facto. There may be a FM situation affecting the purchase organisation only. In such a situation, the purchase organisation is to communicate with the supplier along similar lines as above for further necessary action. If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of FM for a period exceeding 90 (Ninety) days, either party may at its option terminate the contract without any financial repercussion on either side.

2. **A doubt has arisen if the disruption of the supply chains due to spread of corona virus in**



China or any other country will be covered in the Force Majeure Clause (FMC). In this regard it is clarified that it should be considered as a case of natural calamity and FMC may be invoked, wherever considered appropriate, following the due procedure as above.

(Kotluru Narayana Rèddy)

*Deputy Secretary to
the Govt. of India*

Tel. No.24621305

Email: kn.reddy@gov.in”

8.18. Reference in this regard may be had to *Dhanarajamal Govindram Vrs. Shamji Kalidas & Co., AIR 1961 SC 1285 = (1961) 3 SCR 1020*, wherein it has been described that,

“McCardie, J. in Lebeaupin Vrs. Crispin, (1920) 2 KB 714 has given an account of what is meant by “force majeure”, with reference to its history. The expression “force majeure” is not a mere French version of the Latin expression “vis major”. It is undoubtedly a term of wider import. Difficulties have arisen in the past as to what could legitimately be included in “force majeure”. Judges have agreed that strikes, breakdown of machinery, which, though normally not included in “vis major” are included in “force majeure”. An analysis of rulings on the subject into which it is not necessary in this case to go, shows that where reference is made to “force majeure”, the intention is to save the performing party from the consequences of anything over which he has no control. This is the widest meaning that can be given to “force majeure”, and even if this be the meaning, it is obvious that the condition about “force majeure” in the agreement was not vague. The use of the word “usual” makes all the



difference, and the meaning of the condition may be made certain by evidence about a force majeure clause, which was in contemplation of parties.”

8.19. It may be apt to refer to Sections 2 and 2A of the Epidemic Diseases Act, 1897, provisions of which stand as follows:

“2. Power to take special measures and prescribe regulations as to dangerous epidemic disease.—

(1) When at any time the State Government is satisfied that the State or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, the State Government, if it thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take, or require or empower any person to take, such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as it shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.

(2) In particular and without prejudice to the generality of the foregoing provisions, the State Government may take measures and prescribe regulations for—

(b) the inspection of persons travelling by railway or otherwise, and the segregation, in hospital, temporary accommodation or otherwise, of persons



suspected by the inspecting officer of being infected with any such disease.

2A. Powers of Central Government.—

When the Central Government is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease and that the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such disease or the spread thereof, the Central Government may take such measures, as it deems fit and prescribe regulations for the inspection of any bus or train or goods vehicle or ship or vessel or aircraft leaving or arriving at any land port or aerodrome, as the case may be, in the territories to which this Act extends and for such detention thereof, or of any person intending to travel therein, or arriving thereby, as may be necessary.

3. Penalty.—

(1) Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under Section 188 of the Indian Penal Code (45 of 1860).

(2) Whoever,—

- (i) commits or abets the commission of an act of violence against a healthcare service personnel; or*
- (ii) abets or cause damage or loss to any property, shall be punished with imprisonment for a term which shall not be less than three months, but which may extend to five years, and with fine,*



which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

- (3) *Whoever, while committing an act of violence against a healthcare service personnel, causes grievous hurt as defined in section 320 of the Indian Penal Code (45 of 1860) to such person, shall be punished with imprisonment for a term which shall not be less than six months, but which may extend to seven years and with fine, which shall not be less than one lakh rupees, but which may extend to five lakh rupees.*

3A. *Cognizance, investigation and trial of offences.—*

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

- (i) *an offence punishable under sub-section (2) or sub-section (3) of Section 3 shall be cognizable and non-bailable;*
- (ii) *any case registered under sub-section (2) or sub-section (3) of Section 3 shall be investigated by a police officer not below the rank of Inspector;*
- (iii) *investigation of a case under sub-section (2) or sub-section (3) of Section 3 shall be completed within a period of thirty days from the date of registration of the First Information Report;*
- (iv) *in every inquiry or trial of a case under sub-section (2) or sub-section (3) of Section 3, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the*



same shall be continued from day to day until all the witnessed in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded, and an endeavor shall be made to ensure that the inquiry or trial is concluded within a period of one year:

Provided that where the trial is not concluded within the said period, the Judge shall record the reasons for not having done so:

Provided further that the said period may be extended by such further period, for reasons to be recorded in writing, but not exceeding six months at a time.”

8.20. This apart, in the Disaster Management Act, 2005, the following relevant provisions are found:

“2. Definitions.—

In this Act, unless the context otherwise requires,—

- (d) “disaster” means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man-made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;*



(e) “disaster management” means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for—

- (i) prevention of danger or threat of any disaster;
- (ii) mitigation or reduction of risk of any disaster or its severity or consequences;
- (iii) capacity-building;
- (iv) preparedness to deal with any disaster;
- (v) prompt response to any threatening disaster situation or disaster;
- (vi) assessing the severity or magnitude of effects of any disaster;
- (vii) evacuation, rescue and relief;
- (viii) rehabilitation and reconstruction;

24. Powers and functions of State Executive Committee in the event of threatening disaster situation.—

For the purpose of, assisting and protecting the community affected by disaster or providing relief to such community or, preventing or combating disruption or dealing with the effects of any threatening disaster situation, the State Executive Committee may—

- (a) control and restrict, vehicular traffic to, from or within, the vulnerable or affected area;



- (b) *control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;*
- (c) *remove debris, conduct search and carry out rescue operations;*
- (d) *provide shelter, food, drinking water, essential provisions, healthcare and services in accordance with the standards laid down by the National Authority and State Authority;*
- (e) *give direction to the concerned Department of the Government of the State, any District Authority or other authority, within the local limits of the State to take such measure or steps for rescue, evacuation or providing immediate relief saving lives or property, as may be necessary in its opinion;*
- (f) *require any department of the Government of the State or any other body or authority or person in charge of any relevant resources to make available the resources for the purposes of emergency response, rescue and relief;*
- (g) *require experts and consultants in the field of disasters to provide advice and assistance for rescue and relief;*
- (h) *procure exclusive or preferential use of amenities from any authority or person as and when required;*
- (i) *construct temporary bridges or other necessary structures and demolish unsafe structures which may be hazardous to public;*



- (j) *ensure that non-governmental organisations carry out their activities in an equitable and non discriminatory manner;*
- (k) *disseminate information to public to deal with any threatening disaster situation or disaster;*
- (l) *take such steps as the Central Government or the State Government may direct in this regard or take such other steps as are required or warranted by the form of any threatening disaster situation or disaster.”*

8.21. The above statutes (the Epidemic Diseases Act, 1897; and the Disaster Management Act, 2005) also provide for criminal actions and penal consequences for refusing or obstructing the directions issued by competent authorities empowered thereunder. In Odisha, the Office of Special Relief Commissioner in its Order while specifying Guidelines for every month during 2021-22, appended a clause like³:

“10. *Penal provisions.—*

Any person violating these measures will be liable to be proceeded against in accordance with the provisions of Section 51 to 60 of the Disaster Management Act, 2005, the Epidemic Diseases Act, 1897 and Regulations issued thereunder besides legal action under Section 188 of the Indian Penal Code and other legal provisions as applicable.”

³ Extracted from Guidelines contained in Order No.1020/RDM-RLF-MISC-0034-2020/R&DM(DM), dated 27.02.2021 issued by Government of Odisha, Office of Special Relief Commissioner for the period 01.03.2021 to 30.03.2021.



8.22. The Central Board of Direct Taxes have extensively relaxed the datelines for compliance of different provisions under the IT Act read with rules framed thereunder for COVID-19-related expenses, it has treated the pandemic as a significant disruption akin to *force majeure*. These measures were tailored to address specific challenges rather than invoking a blanket *force majeure* clause. Noticeably Circular No. 8/2021 has extended the period for filing returns for the Assessment Year 2020-21 under Section 139 of the IT Act. Said Circular reads thus:

*“F. No.225/49/2021/ITA-II
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
New Delhi, Dated 30th April, 2021*

Subject: Extension of time lines related to certain compliances by the Taxpayers under the Income-tax Act 1961

1. In view of severe pandemic, the Central Board of Direct Taxes, in exercise of its powers under Section 119 of the Income-tax Act, 1961, provides following relaxation in respect of Income-tax compliances by the taxpayers:

a) Appeal to Commissioner (Appeals) under Chapter XX of the Income-tax Act, 1961 for which the last date of filing under that Section is 1st April 2021 or thereafter, may be filed within the time provided



under that Section or by 31st May 2021, whichever is later;

- b) Objections to Dispute Resolution Panel (DRP) under Section 144C of the Income-tax Act, 1961, for which the last date of filing under that Section is 1st April 2021 or thereafter, may be filed within the time provided under that Section or by 31st May 2021 , whichever is later;*
- c) Income-tax return in response to notice under Section 148 of the Income-tax Act, 1961, for which the last date of filing of return of income under the said notice is 1st April 2021 or thereafter, may be filed within the time allowed under that notice or by 31st May 2021, whichever is later;*
- d) **Filing of belated return under sub-section (4) and revised return under sub-section (5) of Section 139 of the Income-tax Act, 1961 for Assessment Year 2020-21, which was required to be filed on or before 31st March 2021 , may be filed on or before 31st May 2021;***
- e) Payment of tax deducted under Section 194-IA, Section 194-IB and Section 194M of the Income-tax Act, 1961 and filing of challan-cum-statement for such tax deducted, which are required to be paid and furnished by 30th April 2021 under Rule 30 of the Income-tax Rules, 1962, may be paid and furnished on or before 31st May 2021;*
- f) Statement in Form No.61, containing particulars of declarations received in Form No.60, which is due to be furnished on or before 30th April 2021, may be furnished on or before 31st May 2021.*



(Ravinder Maini)

Director to the Government of India.”

8.23. With the above factual scenario, taking note of functioning of office of the petitioner with restricted staff and constraints of movement, the reason ascribed by the assessee seems to be plausible to comprehend within the ken of “genuine hardship”.

8.24. Under the aforesaid premise, in the teeth of Circular No.16/2024, dated 18.11.2024 issued by the Central Board of Direct Taxes superseding Circular dated 09.06.2015, glaring flaw is perceived on the face of the Order dated 17.02.2025 of the Commissioner of Income Tax (Exemptions).

Conclusion:

9. Since the petitioner was required to file the Audit Report in Form 10B in terms of Section 12A of the IT Act read with Rule 17B of the IT Rules on or before 15.01.2021 with respect to the Assessment Year 2020-21, but the same was filed on 31.03.2021 with a delay of seventy-six days, the same would be treated to be filed within the period stipulated under the Circular No.16/2024, dated 18.11.2024 and taking cue from the observations made in *Basanti Shial Vrs. Proper Officer*, (2022) 106 GSTR 419 = 2022 SCC OnLine Ori 4150 and *Atlas PVC Pipes Limited Vrs. State of Odisha*, (2022) 106 GSTR 433 (Ori) = 2022



SCC OnLine Ori 2182 referring to extension of period of limitation as considered by the Hon'ble Supreme Court in *Suo Motu Writ Petition (C) No.3 of 2020*, this Court is of the considered view that sufficient cause has been shown that the petitioner had “genuine hardship” in complying with the statutory requirement. Therefore, it is warranted to be observed that the application for condonation of delay of seventy-six days in filing Audit Report in Form 10B should have received liberal consideration and instead of showing pedantic approach the Commissioner of Income Tax ought to have been more pragmatic.

9.1. The Commissioner of Income Tax (Exemptions) having not appreciated the factual aspect in proper perspective and relying on Circular of the year 2015, which has been superseded by Circular dated 18.11.2024, the Order dated 17.02.2025 cannot be said to have passed in consonance with the factual and legal position as discussed hereinabove. Having not perceived the genuine hardship of the petitioner in right earnest, the Commissioner of Income Tax (Exemptions) appears not to have applied his conscientious discretion to the fact-situation of the matter.

9.2. Considering the reasons assigned by the petitioner which prevented it from complying with statutory



requirement, the Order dated 17.02.2025 passed by the Commissioner of Income Tax is liable to be set aside.

10. *Ergo*, finding that there was “genuine hardship” faced by the petitioner during the relevant period and the refusal to condoning the delay invoking power under Section 119(2) of the IT Act being arbitrary exercise of discretion to the fact-situation, Order dated 17.02.2025 passed by the Commissioner of Income Tax (Exemption), Hyderabad-opposite party No.2 (Annexure-1) is hereby set aside.

10.1. In consequence thereof, the Commissioner of Income Tax (Exemptions)-opposite party No.2 is directed to grant all consequential relief to the petitioner by taking into account the Audit Report in Form 10B pertaining to the Assessment Year 2020-21 submitted on 31.03.2021, as if the same is filed within period specified invoking Section 119(2)(b) of the Income Tax Act, 1961.

10.2. Accordingly, the Order dated 30.11.2021 raising demand of Rs.22,01,930/- for the Assessment Year 2020-21 *vide* intimation under Section 143 does require modification, after examination of the merit the Audit Report in Form 10B furnished under Section 12A of the IT Act read with Rule 17B of the IT Rules.

10.3. The matter is remitted to the Commissioner of Income Tax (Exemptions) to examine the merit of Audit Report in



Form 10B prescribed under Rule 17B of the IT Rules with reference to returns filed under Section 139 of the IT Act and modify the intimation under Section 143 (Annexure-2) accordingly.

- 11.** With the observation made *supra* and directions issued, the writ petition stands disposed of, but there shall be no order as to costs.
- 12.** As a result of the disposal of the writ petition, all pending interlocutory applications, if any, shall stand disposed of.

(HARISH TANDON)
CHIEF JUSTICE

(MURAHARI SRI RAMAN)
JUDGE