

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
For the State of Telangana

W.P. No. 20333 OF 2023
CHRONOLOGICAL / RUNNING INDEX

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Place: Hyderabad
Date: 18.07.2023

Counsel for the Petitioner

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MEMORANDUM OF WRIT PETITION
[Under Article 226 of Constitution of India]

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA

W.P.No. 20333 OF 2023
(SPECIAL ORIGINAL JURISDICTION)

Between:

M/s. Modi Housing Private Limited,
Rep. by its Managing Director Soham Modi,
S/o. Late Satish Modi, R/o. 5-4-187/3&4,
Soham Mansion, M.G. Road, Secunderabad-500003.

...Petitioner.

AND

1. Central Board of Direct Taxes,
Rep. by its Chairman,
Room No.150, North Block,
New Delhi - 110001.
2. Commissioner,
Income Tax Department, Circle No.8.
I.T. Towers, AC Guards, Masab Tank,
Hyderabad - 500004.
3. Additional Commissioner,
Income Tax Department, Circle No.8
I.T. Towers, AC Guards, Masab Tank,
Hyderabad - 500004.
4. Income Tax Officer,
Ward No.16(3), I.T. Towers,
AC Guards, Masab Tank,
Hyderabad - 500004.

...Respondents

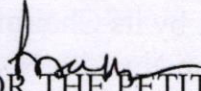
The address for service of all notices and other processes on the above named petitioner is that of his counsel M/s PERI PRABHAKAR (6390), Advocate, H.No.102 Narven's Vaishno Sudhaam, 6-3-1089 & 1089/A, Gulmohar Avenue, Villa Mary College Lane, Lane Opposite to Yes Bank, Raj Bhavan Road, Somajiguda, Hyderabad- 500'0082.

Verification

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For the reasons stated in the accompanying affidavit, It is therefore prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or order or direction declaring the inaction in considering the representation filed by the Petitioner Company dated 18.01.2023 praying for condonation of the delay in filing Form 10-IC for the Assessment Year 2021-22 as arbitrary and illegal and consequently direct the Respondents 1 and 2 to condone the said delay and pass such other consequential or procedural order or orders in the interest of justice.

Hyderabad.
Dated: 27.07.2023


COUNSEL FOR THE PETITIONER

DISTRICT:: Hyderabad
HIGH COURT :: HYDERABAD
W.P.NO. 20333 OF 2023

WRIT PETITION

FILED BY :-

M/S PERI PRABHAKAR (6390)
ADVOCATES
COUNSEL FOR THE PETITIONER

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IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA

W.P.NO. 20333 of 2023

LIST OF EVENTS

Annexure - I

Sl. No.	Dates	Description of the Events	Page/ Para No
1.	NIL	I submit that the Petitioner Company is engaged in the business of construction of residential housing projects. While filing the return of Income for the Assessment Year 2021-22, the Company had availed the benefit of concessional corporate tax regime introduced under Section 115BAA of the Income Tax Act, 1961 (hereinafter referred to as 'Act'). The concessional tax regime requires that the Company / Tax payer does not avail any of the specified benefits in computing the taxable income of the taxpayer.	913
2.	Nil	The Company filed Form 10IC along with the return of income. It is submitted that subsequently the Company received an intimation under Section 143(1) of the Act, wherein the assessing officer has determined the total income and tax liability of the Company without granting the benefit of the new corporate tax regime as envisaged under Section 115BAA of the Act and raised a demand of Rs.69,97,780/-. This demand was subsequently revised to Rs.71,79,680/- vide order dated 10 th January, 2023	913
3	NIL	It is submitted that the Petitioner Company has instructed its Chartered Accountant, Ajay Mehta to file the Income Tax Returns for the Assessment Year 2021-22 and also instructed him to file Form 10-IC simultaneously at the time of filing the Tax returns for the assessment year 2021-22. It is submitted the said Chartered Accountant had informed the Petitioner Company that all the formalities are completed and the returns along with Form 10-IC was submitted for the assessment year 2021-22.	914
4	NIL	I submit that, if the Form 10-IC filed by Petitioner Company is not taken into consideration by condoning the delay, if any, the Petitioner Company would suffer severe hardship as it will not be able to avail the benefits of Section 115BAA on account of the non-compliance of the procedural requirements though the Petitioner Company genuinely pleaded that the same is complied with.	1416

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5	NIL	It is further submitted that though the Petitioner Company had filed Form 10-IC as per the procedure the same is not reflecting in the Income Tax Portal due to technical glitches and the Petitioner Company is not in a position to prove that the Form is filed in view of the fact that its Chartered Accountant Mr.Ajay Mehta had expired and the Petitioner Company is unable to produce the acknowledgement in this regard. Further it may be seen that the option for availing the benefit U/s. 115BAA has been marked as 'YES' by the Company while filing its Income Tax Returns for the Assessment Year 2021-22 which can be clearly seen in the 143(1) intimation.	15/2
6	10.0 1.20 23	It is further submitted that there is every likelihood of the 4 th Respondent herein taking coercive action against the Petitioner Company for recovery of the amount under the order passed on 10.01.2023 demanding Rs.71,79,680/- and as such the Petitioner is praying for a stay of recovery of the said amounts before this Hon'ble Court pending disposal of the writ petition.	17/10

ANNEXURE -II

Under Article 226 of Constitution of India

Hyderabad
Date:2.07.2023

Counsel for Petitioner

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IN THE HIGH COURT FOR THE STATE OF TELANAGANA
AT HYDERABAD

W.P. No. 20333 OF 2023

Between

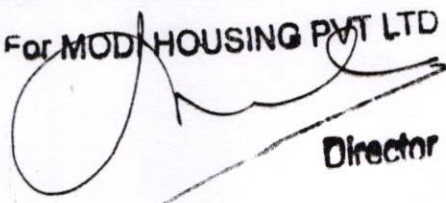
M/s. Modi Housing Private Limited,
Rep. by its Managing Director Soham Modi,
S/o. Late Satish Modi, R/o.5-4-187/3&4,
Soham Mansion, M.G. Road, Secunderabad-500003.

...Petitioner.

AND

1. Central Board of Direct Taxes,
Rep. by its Chairman,
Room No.150, North Block,
New Delhi - 110001.
2. Commissioner,
Income Tax Department, Circle No.8,
I.T. Towers, AC Guards, Masab Tank,
Hyderabad - 500004.
3. Additional Commissioner,
Income Tax Department, Circle No.8,
I.T. Towers, AC Guards, Masab Tank,
Hyderabad - 500004.
4. Income Tax Officer,
Ward No.16(3), I.T. Towers,
AC Guards, Masab Tank,
Hyderabad - 500004.

...Respondents

For MODI HOUSING PVT LTD

Director

AFFIDAVIT

I, Soham Modi, S/o. Late Satish Modi, aged 50 Years, Occ: Business, R/o.5-4-187/3&4, Soham Mansion, M.G. Road, Secunderabad-500 003, do hereby solemnly affirm and state on oath as follows:

1. I am the Managing Director of the Petitioner Company and as such well acquainted with the facts of the case.

2. I submit that the Petitioner Company is now filing the present Writ Petition questioning the inaction of the Respondent No.1 in considering the representation of the Petitioner dated 18.01.2023 and condoning the non-filing of Form-10-IC for the Assessment Year 2021-22 and considering the same as violation of principles of natural justice and also contrary to the settled position of law.

3. I submit that the Petitioner Company is engaged in the business of construction of residential housing projects. While filing the return of Income for the Assessment Year 2021-22, the Company had availed the benefit of concessional corporate tax regime introduced under Section 115BAA of the Income Tax Act, 1961 (hereinafter referred to as 'Act').

The concessional tax regime requires that the Company / Tax payer does

For MODI HOUSING PVT. -

Director

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not avail any of the specified benefits in computing the taxable income of the taxpayer. Therefore, the Company while computing and filing its return of income, did not avail any of the specified benefits and opted to file the return of income by applying the corporate tax regime under Section 115BAA of the Act. The Company filed Form 10IC along with the return of income. It is submitted that subsequently the Company received an intimation under Section 143(1) of the Act, wherein the assessing officer has determined the total income and tax liability of the Company without granting the benefit of the new corporate tax regime as envisaged under Section 115BAA of the Act and raised a demand of Rs.69,97,780/-. This demand was subsequently revised to Rs.71,79,680/- vide order dated 10th January, 2023.

4. It is submitted that the Petitioner Company has instructed its Chartered Accountant, Ajay Mehta to file the Income Tax Returns for the Assessment Year 2021-22 and also instructed him to file Form 10-IC simultaneously at the time of filing the Tax returns for the assessment year 2021-22. It is submitted the said Chartered Accountant had informed the Petitioner Company that all the formalities are completed and the returns along with Form 10-IC was submitted for the assessment year

For MODI HOUSING PVT LTD
Director

2021-22. However, unfortunately the said Chartered Accountant Mr. Ajay Mehta had died on 10.12.2022 and as such the Petitioner Company could not procure the acknowledgement in respect of the submission of Form 10-IC. However, even assuming that Form 10-IC is not filed along with the tax returns in view of the fact that the Petitioner company's tax return for the Assessment Year 2021-22 is filed claiming benefits U/s.115BAA of the Income Tax Act, non-filing of Form 10-IC is not fatal and the same can be considered by condoning the delay in filing the same. Even the settled position of law in this regard clearly indicates that a Form 10-IC even if it is not filed within time the same can be taken into consideration if an application for condoning the delay is filed.

In the case of **Rajkamal Healds and Reeds Pvt Ltd [TS-73-HC-2022(GUJ)]**, the taxpayer filed its return of income for AY 2020-21 by resorting to concessional tax rate U/s.115BAA but failed to file Form No.10-IC electronically, mandatory for availing the concession. Taxpayer's return was thus processed as regular return and a demand was raised. In response to the same, the Hon'ble Gujarat High Court held that the Assessee is at liberty to file an application u/s119(2)(6) seeking permission for condonation of delay in filing of Form No.10-IC and observes that on filing of such application, the Chief Commissioner should expedite it and may exercise discretion keeping in mind the object behind Section 119(2)(b) and also consider the hardships that assessee

For MODI HOUSING PVT LTD

Director

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will be face if not permitted to file the Form No.10-IC and that this was not a deliberate default by the assessee. Hon'ble High Court also considers assessee's submission that it was the first return of the assessee filed in accordance with Section 115BAA where inadvertently assessee's Chartered Accountant missed filing the Form No.10-IC. Hon'ble High Court directs the assessee to file an application for condonation of delay.

In the case of **Civitech Developers Private Limited [TS-597-HC-2021(DEL)]**, the taxpayer engaged in the business of real estate projects, was served with draft assessment order on March 10, 2021, in response to which it made a request for personal hearing through video conferencing to explain the disputed issue, and was asked to request for personal hearing through a video link. Despite repeated attempts, the Assessee was unable to make the request through the video link, which was brought to Revenue's notice on April 16, 2021. In this regard, Hon'ble High Court observed that, as the option for personal hearing was not enabled, the petitioner due to technical glitches could not request for personal hearing on the e-portal, consequently, it cannot be said that the petitioner did not opt for personal hearing.

In the case of **L&T Chennai-Tada Tollway Ltd. [2021]** (128 taxmann.com 172 (Madras HC)), the assessing officer rejected the taxpayer's claim of deduction under section 80-IA on the grounds that Form No.10-CCB was not filed along with the return of income. On appeal the matter reached the Hon'ble Madras High Court which held that filing of such form along with the return of income was mandatory,

For **MODI HOUSING PVT LTD**

Director

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however violation of the said rule did not take away the substantive right of the taxpayer in claiming a deduction under section 80-IA of the Act and that a substantive right could not be denied or taken away by virtue of a rule which was only a machinery provision.

5. It is further submitted that the relevant provisions of the Act are as follows:

Relevant Provision of the Act:

As per the provisions of Section 119(2)(b) of Income Tax Act 1961,

“119(2) Without prejudice to the generality of the foregoing power –

(a)

(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 the 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)”

Pursuant to the above, the CBDT has issued **Circular 9/2015 [F.No.312/22/2015-OT]** dated 9th June 2015 (enclosed and annexed as **Annexure-D**) giving instructions to subordinate authorities to deal with applications for condonation of delay in filing refund claim and claim of carry forward of losses under Section 119(2)(b) of the Act. The aforementioned circular contains comprehensive guidelines on the conditions for condonation and procedure to be followed for deciding such matters. Relevant extract of the circular is provided herewith for your ready reference:

For MODI HOUSING



Director

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"In supersession of all earlier Instructions/Circulars/Guidelines issued by the Central Board of Direct Taxes (the Board) from time to time to deal with the applications for condonation of delay in filing returns claiming refund and returns claiming carry forward of loss and set-off thereof under section 119(2)(b) of the Income Tax Act (the Act), the present Circular is being issued containing comprehensive guidelines on the conditions for condonation and the procedure to be followed for deciding such matters.

(2) The Principal Commissioners of Income-tax/Commissioners of Income-tax (Pr.CsIT/CsIT) shall be vested with the powers of acceptance/rejection of such application/claims if the amount of such claims is not more than Rs.10 lakhs for any one Assessment Year. The Principal Chief Commissioner of Income-tax/ Chief Commissioner of Income-tax (PLCCsIT/CCsIT) shall be vested with the powers of acceptance/rejection of such application/claims if the amount of such claims exceeds Rs.10 lakhs but is not more than Rs.50 lakhs for any one assessment year. The application/claims for amount exceeding Rs.50 lakhs shall be considered by the Board.

.....
(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.
....."

Based on the above circular and relevant provisions of the law, the Petitioner is entitled to seek condonation to file Form 10-IC for AY 2021-22 with the Respondent No.1. Based on the above rulings and facts of the case, it is further submitted that, assuming but not admitting that the form was not filed, the omission was not deliberate and circumstantial and the Company shall be put to extreme hardship if the delay is not condoned. And the procedural requirement of filing the form should not result in denial of the benefits of Section 115BAA as the conditions to avail the same has been complied with by the taxpayer.

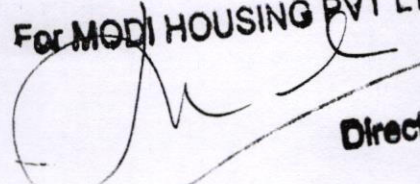
For MODTHOUSING PVT LTD

Director

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In the light of the provisions of the Act and the judicial interpretations, it can be comprehended that Section 115BAA of the Act is a beneficial provision and shall be construed liberally. The benefits of Section 115BAA cannot be withdrawn merely due to non-filing of Form 10-IC. AY 2021-22 was the first year in which the Company has opted for the concessional tax rate @ 22% wherein the return was not mandating the filing of the acknowledgement number of Form 10-IC due to which corrective action could not taken. As a result of the technical issues, a demand of Rs.71 lakhs has been levied on the Company.

6. I submit that, if the Form 10-IC filed by Petitioner Company is not taken into consideration by condoning the delay, if any, the Petitioner Company would suffer severe hardship as it will not be able to avail the benefits of Section 115BAA on account of the non-compliance of the procedural requirements though the Petitioner Company genuinely pleaded that the same is complied with. Further, the Petitioner Company has already lost the opportunity of availing the specified benefits while filing the return by opting for the Corporate Tax regime U/s. 115BAA of the Act. That being the case the Petitioner Company is deprived from both sides.

For MODI HOUSING PVT LTD

Director

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7. It is further submitted that though the Petitioner Company had filed Form 10-IC as per the procedure the same is not reflecting in the Income Tax Portal due to technical glitches and the Petitioner Company is not in a position to prove that the Form is filed in view of the fact that its Chartered Accountant Mr. Ajay Mehta had expired and the Petitioner Company is unable to produce the acknowledgement in this regard. Further it may be seen that the option for availing the benefit U/s. 115BAA has been marked as 'YES' by the Company while filing its Income Tax Returns for the Assessment Year 2021-22 which can be clearly seen in the 143(1) intimation. Thus, even if the company or its Chartered Accountant inadvertently failed to file the Form 10-IC the intention to avail of the Section 115BAA benefit has been expressed thereby further making it clear that the company had foregone the specified benefits that it could have got by filing a return.

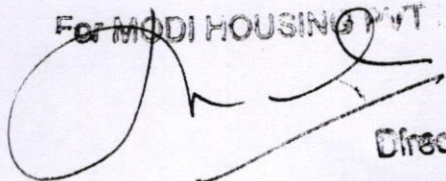
8. It is further submitted that as per the guidelines laid down under Circular 9/2015 [F.No.312/22/ 2015-OT] dated 09.06.2015 the amount involved in this application is in excess of Rs.50 lakhs as such the application for condonation of delay is liable only to the 1st Respondent. In view of the facts and circumstances the Petitioner Company has filed

For MODT HOUSING PVT LTD

Director

the representation dated 23.01.2023 before the 1st Respondent. However, the 1st Respondent has failed to take any action in this regard or grant condonation of delay in filing Form 10-IC constraining the petitioner company to file the present writ petition.

9. The legal position clearly reflects and mandates that Section 115BAA and its benefits are to be given to the taxpayers liberally and merely due to non-filing of Form 10-IC the Company should not be deprived of the benefits only on technical issues and the Company cannot be penalized and mulcted with a demand of Rs.71,79,680/- which is very huge amount. It is submitted that as against the order the Petitioner Company has already filed an Appeal before the Appellate Authority. It is submitted that subsequently the 1st Respondent herein has issued Circular No.7 of 2023 dated 31.05.2023 whereby the mandatory limits for making application for condonation of delay in filing refund claim etc., U/s. 119(2)(b) of the Income Tax Act, 1961 was altered and the application in respect of the amounts between Rs.50 lakhs and Rs.2 Crores for any assessment year lies to the 2nd Respondent herein. As such the Petitioner herein has immediately made an application dated 14.06.2023 to the 2nd Respondent. In the meanwhile the Appellate

For MODI HOUSING PVT LTD

Director

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Authority has sent a communication to the Petitioner to file written arguments in respect of the appeal submitted earlier. The Petitioner immediately submitted the written arguments as well. However, there is no consideration of the appeal or application made by the Petitioner till date. It is further submitted that as it is within the jurisdiction of the 1st Respondent to consider the Form 10-IC which is belatedly filed. The present writ petition is being filed praying the Hon'ble Court to issue a direction to the 1st Respondent to consider the representation of the Petitioner Company for condoning the delay in filing Form 10-IC.

10. It is further submitted that there is every likelihood of the 4th Respondent herein taking coercive action against the Petitioner Company for recovery of the amount under the order passed on 10.01.2023 demanding Rs.71,79,680/- and as such the Petitioner is praying for a stay of recovery of the said amounts before this Hon'ble Court pending disposal of the writ petition.

11. The petitioner has got no other equally efficacious alternative remedy except invoking the extra ordinary original jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India.

For MODI HOUSING PVT LTD

Director

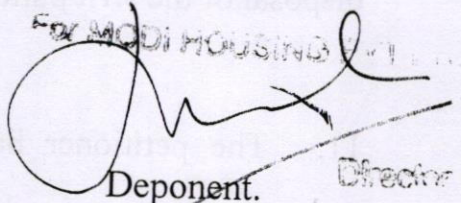
12. The Petitioner has not filed any other Writ Petition or proceeding for the same relief which is claimed in the present Writ Petition and no other proceedings are pending before any other forum with respect to the same subject matter.

13. It is necessary that this Hon'ble court may be pleased to direct the Respondents not to take any coercive action against the Petitioner Company pursuant to the order passed in proceedings no.825482160291122 dated 10.01.2023 pending disposal of the Writ Petition.

14. It is therefore prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or order or direction declaring the inaction in considering the representation filed by the Petitioner Company dated 18.01.2023 praying for condonation of the delay in filing Form 10-IC for the Assessment Year 2021-22 as arbitrary and illegal and consequently direct the Respondents 1 and 2 to condone the said delay and pass such other consequential or procedural order or orders in the interest of justice.

Sworn and signed before me on this
the 5th day of July 2023 at Hyderabad.

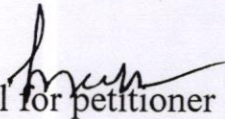
Advocate, Hyderabad

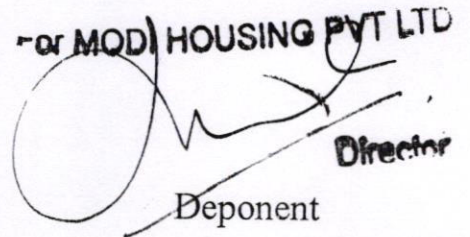
For MODI HOUSING

Deponent. Director

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VERIFICATION

I, Soham Modi, S/o. Late Satish Modi, Aged 50 Years, Occ: Business, R/o.5-4-187/3&4, Soham Mansion, M.G. Road, Secunderabad-500 003, being the Managing Director of the Petitioner Company do hereby declare that the contents of the above paragraphs are true and correct to the best of knowledge, information and belief and hence verified on this the 3rd day of July, 2023 at Hyderabad.


Counsel for petitioner

for MODI HOUSING PVT LTD

Director
Deponent

MODI HOUSING PVT LTD

5-4-187/3&4, II floor, MG Road,
Secunderabad - 500 003.
Phone: +91-40-6635551

18th January 2023

To
Shri Nitin Gupta,
Chairman, Central Board of Direct Taxes,
Room No. 150,
North Block,
New Delhi - 110001.

Dear Sir,

Sub: Application for condonation of delay in filing Form 10 - IC under Section 119(2)(b) of IT Act, 1961.

Ref: Modi Housing Private Limited ('the Assessee' or 'the Company' or 'Modi Housing') - Assessment Year ('AY') 2021-22

PAN: AADCM5906D

Background

Modi Housing Private Limited (herein after mentioned as 'the Company' or 'Modi Housing') is a Company incorporated under the Companies Act, 2013 with CIN - U45200TG2002PTC040192 having its registered office at 5-4-187/3&4, 3rd floor, Soham Mansion, M. G. Road, Secunderabad - 3, Hyderabad, Telangana - 500003 India.

With kind reference to the aforementioned subject, the Company is in receipt of intimation under section 143(1) dated 13 November 2022 vide demand reference number - 2022202137133975171C issued for the Assessment Year 2021-22.

In the present communication, the Company wishes to submit the following information for your favorable consideration.

Facts

The Company is engaged in the business of construction and development of residential housing projects. While filing the return of Income for the Assessment Year 2021-22, the Company had availed the benefit of concessional corporate tax regime introduced under Section 115BAA of the Income Tax Act, 1961 (hereinafter referred to as 'Act'). The concessional tax regime requires that the Company/ taxpayer does not avail any of the specified benefits in computing the



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taxable income of the taxpayer. Therefore, the Company while computing and filing its return of income, did not avail any of the specified benefits and opted to file the return of income by applying the corporate tax regime under section 115BAA of the Act. The Company filed Form 10IC along with the return of income.

We have subsequently received an intimation under section 143(1) of the Act, wherein the assessing officer has determined the total income and tax liability of the Company without granting the benefit of the new corporate tax regime as envisaged under section 115BAA of the Act and raised a demand of Rs. 69,97,780. This demand was subsequently revised to Rs. 71,79,680 vide order dated 10 January 2023. The copy of the intimation order and revision order is attached and annexed as Annexure A and Annexure B respectively.

Our Submission

We would like to submit before your goodself that that we had filed Form 10-IC for AY 2021-22, however, due to technical issues, the same is not reflecting on the income tax portal. Additionally, the acknowledgement of filing the same cannot be traced as our Chartered Accountant, Mr. Ajay Mehta, who had assisted us in filing the Income Tax Return for AY 2021-22, passed away on December 10th, 2022. The death summary of the same is attached and annexed as Annexure C. CA Ajay Mehta, our statutory auditor and tax advisor has been diligently and professionally helping the Company in filing and complying with all the tax laws. Due to his ill health and now his demise we are not in possession of proof of having submitted the Form 10-IC at the time of tax return filing for the AY 2021-22.

Assuming but not admitting, that the Company has failed to submit Form 10-IC electronically before filing the return for the AY 2021-22, the Company wishes to approach your good office for seeking condonation in filing the Form 10-IC and the return of income to be re-processed accordingly. We wish to submit before your good office that we have complied with all the conditions as required by the Act for availing the benefit of the section 115BAA. Assuming but not admitting that the Company has failed to submit the Form 10-IC, we wish to humbly submit and request before your goodself that the Company be given an opportunity to make good the deficiency.

We also wish to submit before your goodself that the Company will be put to undue hardship if the Company is not permitted to avail the benefit of section 115BAA merely on account of non-compliance with some procedural requirement which the Company genuinely believes to have complied with. In this regard, we wish to bring following judicial precedents to your good self's consideration:

In the case of Rajkamal Healds and Reeds Pvt. Ltd. [TS-73-HC-2022(GUJ)], the taxpayer filed its return of income for AY 2020-21 by resorting to concessional tax rate u/s 115BAA but



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failed to file Form No. 10-IC electronically, mandatory for availing the concession. Taxpayer's return was thus processed as regular return and a demand was raised. In response to the same, the Hon'ble Gujarat High Court held that the Assessee is at liberty to file an application u/s 119(2)(b) seeking permission for condonation of delay in filing of Form No. 10-IC and observes that on filing of such application, the Chief Commissioner should expedite it and may exercise discretion keeping in mind the object behind Section 119(2)(b) and also consider the hardships that assessee will face if not permitted to file the Form No. 10-IC and that this was not a deliberate default by the assessee. Hon'ble High Court also considers assessee's submission that it was the first return of the assessee filed in accordance with Section 115BAA where inadvertently assessee's Chartered Accountant missed filing the Form No. 10-IC. Hon'ble High Court directs the assessee to file an application for condonation of delay.

In the case of **Civitech Developers Private Limited [TS-597-HC-2021(DEL)]**, the taxpayer engaged in the business of real estate projects, was served with draft assessment order on March 10, 2021, in response to which it made a request for personal hearing through video conferencing to explain the disputed issue, and was asked to request for personal hearing through a video link. Despite repeated attempts, the Assessee was unable to make the request through the video link, which was brought to Revenue's notice on April 16, 2021. In this regard, Hon'ble High Court observed that, as the option for personal hearing was not enabled, the petitioner due to technical glitches could not request for personal hearing on the e-portal, consequently, it cannot be said that the petitioner did not opt for personal hearing.

In the case of **L&T Chennai-Tada Tollway Ltd. [2021]** (128 taxmann.com 172 (Madras HC)), the assessing officer rejected the taxpayer's claim of deduction under section 80-IA on the grounds that Form No. 10CCB was not filed along with the return of income. On appeal the matter reached the Hon'ble Madras High Court which held that filing of such form along with the return of income was mandatory, however violation of the said rule did not take away the substantive right of the taxpayer in claiming a deduction under section 80-IA of the Act and that a substantive right could not be denied or taken away by virtue of a rule which was only a machinery provision.

We would also like to highlight the difficulties taxpayers and tax professionals had to encounter in complying with the requirements of the Act due to the technical issue which is encountered in any large-scale technology adoption/ upgradation exercise. We wish to submit before your goodself that the taxpayers should not be put to undue hardship due to deficiencies in the portal.

Relevant Provision of the Act

As per the provisions of section 119(2)(b) of Income Tax Act 1961,




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"119(2) Without prejudice to the generality of the foregoing power -
(a)

(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)"

Pursuant to the above, the CBDT has issued Circular 9/2015 [F. No. 312/22/2015-OT] dated 9th June 2015 (enclosed and annexed as Annexure D) giving instructions to subordinate authorities to deal with applications for condonation of delay in filing refund claim and claim of carry forward of losses under Section 119(2)(b) of the Act. The aforementioned circular contains comprehensive guidelines on the conditions for condonation and procedure to be followed for deciding such matters. Relevant extract of the circular is provided herewith for your ready reference:

"In supersession of all earlier Instructions/Circulars/Guidelines issued by the Central Board of Direct Taxes (the Board) from time to time to deal with the applications for condonation of delay in filing returns claiming refund and returns claiming carry forward of loss and set-off thereof under section 119(2)(b) of the Income-tax Act (the Act), the present Circular is being issued containing comprehensive guidelines on the conditions for condonation and the procedure to be followed for deciding such matters.

(2) The Principal Commissioners of Income-tax/Commissioners of Income-tax (Pr.CsIT/CsIT) shall be vested with the powers of acceptance/rejection of such applications/claims if the amount of such claims is not more than Rs. 10 lakhs for any one Assessment Year. The Principal Chief Commissioners of Income-tax/Chief Commissioners of Income-tax (PLCCsIT/CCsIT) shall be vested with the powers of acceptance/rejection of such applications/claims if the amount of such claims exceeds Rs. 10 lakhs but is not more than Rs. 50 lakhs for any

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one assessment year. The applications/claims for amount exceeding Rs.50 lakhs shall be considered by the Board.

(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.

Based on the above circular and relevant provisions of the law, we would like to seek condonation to file Form 10-IC for AY 2021-22 with your goodself. Based on the above rulings and facts of the case, we would also like to submit before your good self that

- Assuming but not admitting that the form was not filed, the omission was not deliberate and circumstantial and the Company shall be put to extreme hardship if the delay is not condoned.
- Procedural requirement of filing the form should not result in denial of the benefits of section 115BAA, the conditions to avail the same has been complied with by the taxpayer.

Prayer

With due respect, we would like to respectfully submit before your goodself that the Company has filed its return for the AY 2021-22 by availing the benefit of the concessional tax rate under Section 115BAA of the Income Tax Act, 1961, thereby complying with all the conditions laid down in such section. Furthermore, for availing such benefit, the Company has also filed Form 10-IC as per the provisions of the Act. However, it has come to our attention that the same is not reflecting on the Income Tax Portal. But, due to technical glitches and demise of CA Ajay Mehta the Company is not in a position to prove that the form is filed. On perusal of the 143(1) intimation, it can be observed that the option for availing the benefit under Section 115BAA has been marked as 'Yes' by the Company while filing its income tax return for the AY 2021-22. Therefore, we are assuming, although not admitting, that the Company may have inadvertently failed to submit Form 10-IC.

We would like to bring to your kind attention that the quantum of amount involved in this application is in excess of Rs. 50 lakhs. Therefore, as per the guidelines laid down in Circular 9/2015 [F. No. 312/22/2015-OT] dated 9th June 2015, the application for condonation of delay is being filed with the Central Board of Direct Taxes.

In light of the provisions of the Act and the judicial interpretations, it can be comprehended that Section 115BAA of the Act is a beneficial provision and shall be construed liberally. The benefits of Section 115BAA cannot be withdrawn merely due to non-filing of Form 10-IC. AY 2021-22 was the first year in which the Company has opted for the concessional tax rate @22%, wherein the return was not mandating the filling of the acknowledgement number of Form 10-IC,



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due to which corrective action could not be taken. As a result of the technical issues, a demand of Rs. 71 lakhs has been levied on the Company.

In accordance with the same, we would like to humbly request your goodself to kindly grant us condonation for filing Form 10-IC for the AY 2021-22 on the principles of natural justice and also consider the hardships that the Company will face if not permitted to file the Form No. 10-IC electronically.

If you require any further information, we shall be pleased to provide the same. We also request your goodself to grant us an opportunity of being heard in person prior to passing any order in this regard.

Thanking you!

Yours faithfully

For Modi Housing Private Limited


Authorised Signatory



Encl

Annexure A: Order issued under 143(1)

Annexure B: Order issued under 154

Annexure C: Death summary of CA Ajay Mehta

Annexure D: Circular issued by Central Board of Direct Taxes

MODI HOUSING PVT LTD

25A
- 21 - (New CM)

5-4-187/3&4, II Floor, MG Road,
Secunderabad - 500 003,
Phone : +91-40-66335551
18th January 2023

To
Shri. Nitin Gupta,
Chairman, Central Board of Direct Taxes,
Room No. 150,
North Block,
New Delhi - 110001.

Dear Sir,

Sub :- Application for condonation of delay in filing Form 10 - IC Under Section 119(2)(b) of IT Act, 1961.

Ref :- Modi Housing Private Limited ('the Assessee' or 'the Company' or 'Modi Housing') - Assessment Year ('AY') 2021-22.

PAN : AADCM5906D

Background

Modi Housing Private Limited (herein after mentioned as 'the Company' or 'Modi Housing') is a Company incorporated under the Companies Act, 2013 with CIN - U45200TG2002PTC040192 having its registered office at 5-4-187/3&4, 3rd Floor, Soham Mansion, M.G. Road, Secunderabad - 3, Hyderabad, Telangana - 500003 India.

With kind reference to the aforementioned subject, the Company is in receipt of intimation under Section 143(1) dated 13 November 2022 vide demand reference number - 2022202137133975171C issued for the Assessment Year 2021-22.

In the present communication, the Company wishes to submit the following information for your favourable consideration.

Facts

The Company is engaged in the business of construction and development of residential housing projects. While filing the return of Income for the Assessment Year 2021-22, the Company had availed the benefit of concessional corporate tax regime introduced under Section 115BAA of the Income Tax Act, 1961 (hereinafter referred to as 'Act'). The concessional tax regime requires that the Company/Taxpayer does not avail any of the specified benefits in computing the

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taxable income of the taxpayer. Therefore, the Company while computing and filing its return of income, did not avail any of the specified benefits and opted to file the return of income by applying the corporate tax regime under section 115BAA of the Act. The Company filed Form 101C along with the return of income. We have subsequently received an intimation under section 143(1) of the Act, wherein the assessing officer has determined the total income and tax liability of the Company without granting the benefit of the new corporate tax regime as envisaged under section 115BAA of the Act and raised a demand of Rs. 69,97,780. This demand was subsequently revised to Rs. 71,79,680 vide order dated 10 January 2023. The copy of the intimation order and revision order is attached and annexed as Annexure A and Annexure B respectively.

Our Submission

We would like to submit before your goodself that that we had filed Form 10-IC for AY 2021-22, however, due to technical issues, the same is not reflecting on the income tax portal. Additionally, the acknowledgement of filing the same cannot be traced as our Chartered Accountant, Mr. Ajay Mehta, who had assisted us in filing the Income Tax Return for AY 2021-22, passed away on December 10, 2022. The death summary of the same is attached and annexed as Annexure C.. CA Ajay Mehta, our statutory auditor and tax advisor has been diligently and professionally helping the Company in filing and complying with all the tax laws. Due to his ill health and now his demise we are not in possession of proof of having submitted the Form 10-IC at the time of tax return filing for the AY 2021-22.

Assuming but not admitting, that the Company has failed to submit Form 10-IC electronically before filing the return for the AY 2021-22, the Company wishes to approach your good office for seeking condonation in filing the Form 10-IC and the return of income to be re-processed accordingly. We wish to submit before your good office that we have complied with all the conditions as required by the Act for availing the benefit of the section 115BAA. Assuming but not admitting that the Company has failed to submit the Form 10-IC, we wish to humbly submit and request before your goodself that the Company be given an opportunity to make good the deficiency.

We also wish to submit before your goodself that the Company will be put to undue hardship if the Company is not permitted to avail the benefit of section 115BAA merely on account of non-compliance with some procedural requirement which the Company genuinely believes to have complied with. In this regard, we wish to bring following judicial precedents to your good self's consideration:

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In the case of Rajkamal Healds and Reeds Pvt. Ltd. [TS-73-HC-2022(GUJ)], the taxpayer filed its return of income for AY 2020-21 by resorting to concessional tax rate u/s 115BAA but failed to file Form No.10-IC electronically, mandatory for availing the concession. Taxpayer's return was thus processed as regular return and a demand was raised. In response to the same the Hon'ble Gujarat High Court held that the Assessee is at liberty to file an application u/S 119(2) (b) seeking permission for condonation of delay in filling of Form No.10IC and observes that on filing of such application, the Chief commissioner should expedite it and may exercise discretion keeping in mind the object behind Section 119(2)(b) and also consider the hardships that assessee will face if not permitted to file the Form No.10IC and that this was not a deliberate default by the assessee. Hon'ble High court also considers assessee's submission that it was the first return of the assessee filed in accordance with section 115BAA where inadvertently assessee's chartered Accountant missed filing the Form No.10IC. Hon'ble High Court directs the assessee to file an application for condonation of delay.

In the case of Civitech Developers Private Limited [TS-597-HC-2021(DEL)], the taxpayer engaged in the business of real estate projects, was served with draft assessment order on March 10, 2021, in response to which it made a request for personal hearing through video conferencing to explain the disputed issue, and was asked to request for personal hearing through a video link. Despite repeated attempts, the Assessee was unable to make the request through the video link, which was brought to Revenue's notice on April 16, 2021. In this regard, Hon'ble High Court observed that, as the option for personal hearing was not enabled, the petitioner due to technical glitches could not request for personal hearing on the e-portal, consequently, it cannot be said that the petitioner did not opt for personal hearing.

In the case of L&T Chennai-Tada Tollway Ltd. [2021] (128 taxmann.com 172 (Madras HC)), the assessing officer rejected the taxpayer's claim of deduction under section 80-IA on the grounds that Form No. 10CCB was not filed along with the return of income. On appeal the matter reached the Hon'ble Madras High Court which held that filing of such form along with the return of income was mandatory, however violation of the said rule did not take away the substantive right of the taxpayer in claiming a deduction under section 80-IA of the Act and that a substantive right could not be denied or taken away by virtue of a rule which was only a machinery provision.

"119(2) Without prejudice to the generality of the foregoing power- (a)....

(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).....

Pursuant to the above, the CBDT has issued Circular 9/2015 [F. No. 312/22/2015-OT] dated 9th June 2015 (enclosed and annexed as Annexure D) giving instructions to subordinate authorities to deal with applications for condonation of delay in filing refund claim and claim of carry forward of losses under Section 119(2)(b) of the Act. The aforementioned circular contains comprehensive guidelines on the conditions for condonation and procedure to be followed for deciding such matters. Relevant extract of the circular is provided herewith for your ready reference:

"In supersession of all earlier Instructions/Circulars/Guidelines issued by the Central Board of Direct Taxes (the Board) from time to time to deal with the applications for condonation of delay in filing returns claiming refund and returns claiming carry forward of loss and set-off thereof under section 119(2)(b) of the Income-tax Act(the Act), the present Circular is being issued containing comprehensive guidelines on the conditions for condonation and the procedure to be followed for deciding such matters.

(2) The Principal Commissioners of Income-tax/Commissioners of Income-tax (Pr. CsIT/CIT) shall be vested with the powers of acceptance/rejection of such applications/claims if the amount of such claims is not more than Rs. 10 lakhs for any one Assessment Year. The Principal Chief Commissioners of Income-tax/Chief Commissioners of Income-tax (PLCCSIT/CCSIT) shall be vested with the powers of acceptance/rejection of such applications/claims if the amount of such claims exceeds Rs. 10 lakhs but is not more than Rs.50 lakhs for any one assessment year. The applications/claims for amount exceeding

Rs.50 lakhs shall be considered by the Board.

(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.

Based on the above circular and relevant provisions of the law, we would like to seek condonation to file Form 10-IC for AY 2021-22 with your goodself. Based on the above rulings and facts of the case, we would also like to submit before your good self that

- Assuming but not admitting that the form was not filed, the omission was not deliberate and circumstantial and the Company shall be put to extreme hardship if the delay is not condoned.
- Procedural requirement of filing the form should not result in denial of the benefits of section 115BAA, the conditions to avail the same has been complied with by the taxpayer.

Prayer

With due respect, we would like to respectfully submit before your goodself that the Company has filed its return for the AY 2021-22 by availing the benefit of the concessional tax rate under Section 115BAA of the Income Tax Act, 1961, thereby complying with all the conditions laid down in such section. Furthermore, for availing such benefit, the Company has also filed Form 10-IC as per the provisions of the Act. However, it has come to our attention that the same is not reflecting on the Income Tax Portal. But, due to technical glitches and demise of CA Ajay Mehta the Company is not in a position to prove that the form is filed. On perusal of the 143(1) intimation, it can be observed that the option for availing the benefit under Section 115BAA has been marked as 'Yes' by the Company while filing its income tax return for the AY 2021-22. Therefore, we are assuming, although not admitting, that the Company may have inadvertently failed to submit Form 10-IC.

We would like to bring to your kind attention that the quantum of amount involved in this application is in excess of Rs. 50 lakhs. Therefore, as per the guidelines laid down in Circular 9/2015 [F. No. 312/22/2015-OT] dated 9th June 2015, the application for condonation of delay is being filed with the Central Board of Direct Taxes.

In light of the provisions of the Act and the judicial interpretations, it can be comprehended that Section 115BAA of the Act is a beneficial provision and shall be construed liberally. The benefits of Section 115BAA cannot be withdrawn merely due to non-filing of Form 10-IC. AY 2021-22 was the first year in which the Company has opted for the concessional tax rate @22%, wherein the return was not mandating the filling of the acknowledgement number of Form 10-IC, due to which corrective action could not be taken. As a result of the technical issues, a demand of Rs. 71 lakhs has been levied on the Company. In accordance with the same, we would like to humbly request your

goodselves to kindly grant us condonation for filing Form 10-10 for the AY 2021-22 on the principles of natural justice and also consider the hardships that the Company will face if not permitted to file the Form No. 10-IC electronically.

If you require any further information, we shall be pleased to provide the same. We also request your goodness to grant us an opportunity of being heard in person prior to passing any order in this regard.

Thanking you!

Yours faithfully

For Modi Housing Private Limited

Authorised Signatory

Encl

Annexure A: Order issued under 143(1)

Annexure B: Order issued under 154

Annexure C: Death summary of CA Ajay Mehta Annexure D: Circular issued by Central Board of Direct Taxes

CARE

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DEPARTMENT OF PEDIATRIC & GI SURGERY

DEATH SUMMARY

ICD-10	ICD-10	IP NO.	ICD-10
Name	MR. B. RAVINDER	Bed No.	110
Age - Gender	45 Male	Admission Date	01/10/2019
Location	Dr. RAVINDER REDDY'S	Date of Death	01/10/2019
Discharge Type	Death		

Location of Death : WARD

PRIMARY CONSULTANT: DR. B. RAVINDER REDDY	SPECIALITY: SURGICAL GASTROENTEROLOGY, MINIMAL ACCESS AND BARIATRIC SURGERY
---	--

REFERRAL CONSULTANTS: CRITICAL CARE TEAM	SPECIALITY: CRITICAL CARE MEDICINE
DR. JAYACHANDRA	PULMONOLOGIST
DR. VISHNU REDDY	ENT

Admission/ Provisional Diagnosis :

- CARCINOMA LUNG (STAGE-4) FOR NUTRITIONAL INTERVENTION + GRADE-4 HEMORRHOIDS

Cause of Death :

- CARDIAC ARREST SECONDARY TO RESPIRATORY FAILURE DUE TO CARCINOMA LUNG (STAGE-4) WITH MALIGNANT EFFUSIONS AND MALNUTRITION

Comorbidities with Duration and Treatment :

C/O CORONARY ARTERY DISEASE - S/P PTCA, HYPERTENSION
C/O CARCINOMA LUNG (STAGE-4) - ON CHEMOTHERAPY

IEF HISTORY AND EXAMINATION FINDINGS ON ADMISSION:

QUALITY CARE INDIA LIMITED

CIN: U85110TG1992PLC014728

evercare group

WARD HOSPITALS

Ward No. 6-3-245/2, Road No-1, Hyderabad-500034, Telangana, India. Tel: 040-66159635, 040-66159635, 040-66159637

Ward No. 137891, P.O. 40-10418488

Ward No. - CARE Outpatient Centre: Road No-10, Hyderabad-500034, Telangana, India. Tel: 040-39310417, 040-39310412. Page 1 of 3

Ward No. 1, 040-39310417, P.O. 40-39310410

Ward No. 1, 040-39310417, P.O. 40-39310410

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Page 2

ALAY MERTA, aged 65 years male presented with C/o pain in the perianal region since 2 days. C/o unable to pass stools freely since 20 days. No C/o bleeding per rectum. Patient is a known case of carcinoma lung, has taken chemotherapy. Now came for nutritional intervention.

PHYSICAL EXAMINATION FINDINGS AT ADMISSION :

Patient is Conscious / Coherent / Afebrile
No Tachycardia / Clubbing / Pallor / Pedal oedema
BP : 140/80 mmHg PP+
RR : 20/min
S1-, S2- JVP : Norm
A soft, BS (+) CNS : NAD

Perianal examination : Grade-IV haemorrhoids with no active bleeding

COURSE IN HOSPITAL (INCLUDING ALL REFERRAL CONSULTANT CLINICAL EXAMINATION AND OPINIONS):

ALAY MERTA, aged 65 years male presented with C/o pain in the perianal region since 2 days. C/o unable to pass stools freely since 20 days. No C/o bleeding per rectum. Patient is a known case of carcinoma lung, has taken chemotherapy. Now came for nutritional intervention. Patient was managed with total parenteral nutrition (SMOF KABIVEN PERI) and other supportive measures including magnesium sulphate and glycerol dressing for haemorrhoids. Patient was started on oral liquids, tolerated well and hence oral normal diet started. ENT opinion taken in view of bleeding from nostrils and advice followed. Patient was advised regarding need of nasal endoscopy but patient refused. But patient developed breathlessness for which Pulmonology consultation was taken and advice followed. Critical Care consultation was taken in view of respiratory distress and advice followed. Patient was shifted to ICU in view of respiratory distress. Patient's attenders were counselled regarding need of various modalities of Oxygen therapy including ventilator. Patient's attenders didn't want any intervention for the patient's condition after counselling regarding further care and management and want to have palliative and end of

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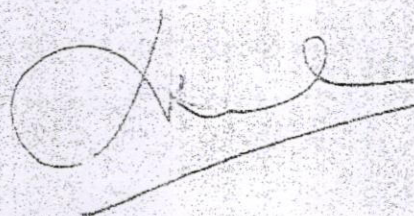
UHID : 50265530
Name : NIKAJAY MEHTA

IP NO : CBIP72/20155
Bed No : 312

life care in ward. Hence patient was shifted to room with BIPAP, pain relieving medication and other supportive measures including total parenteral nutrition. Patient was treated with multiple pain relieving medications along with mild sedation. Patient's saturation dropped despite BIPAP with maximum oxygen flow. On 10/12/2022, at 10:45am patient was not responding, BP was not recordable, pulse was not palpable, heart sounds were not heard and bilateral pupils were dilated and fixed. As patient was on palliative and end of life care, cardiopulmonary resuscitation was not done. ECG was recorded which showed no cardiac activity and hence patient was declared dead at 10:56 AM on 10/12/2022.

Doctor who prepared death summary Name: DR. DAYA SAGAR C Designation: State Medical Council Number:	Surrogate who received Death Summary Name: Relationship: Mobile No: Signature:
--	--

Dr RAVINDER REDDY B (MINIMAL ACCESS
BARIATRIC & GI SURGERY)
CONSULTANT GASTRO INTESTINAL &
GENERAL SURGEON
MS, FRCS (Edinburgh), FRCS (Glasgow)
drbravinderreddy@gmail.com



Print Date & Time: 10/12/2022 13:30

CARE
Hospital

← 30 → (Net em)
**DEPARTMENT OF BARIATRIC & GI SURGERY
DEATH SUMMARY**

UHID : 50265330
Name : Mr. Ajay Mehta

IP No: CBIP22/20155
Bed No. 312

Location of Death : WARD

Primacy Consultant : Dr.B.Ravinder Reddy

Speciality : Surgical Gastroenterology,
Minimal Access and Bariatric Surgery

Referral Consultants : Critical Care Team
Dr. Jayachandra
Dr. Vishnu Reddy

Speciality : Critical Care Medicine
Pulmonologist
ENT

Admission/Provisional Diagnosis:

Carcinoma Lung (Stage-4) for Nutritional Intervention + Grade-4 Hemorrhoids

Cause of Death:

Cardiac arrest secondary to respiratory failure due to carcinoma lung (Stage-4) with walignant effusions and malnutrition

o-morbidities with duration and treatment:

/C/O Coronary Artery Disease – S/P PTCA, Hypertension

/C/O Carcinoma Lung (Stage-4) – On Chemotherapy

Chief History and Examination Findings on Admission:

COURSE IN HOSPITAL (INCLUDING ALL REFERRAL CONSULTANT CLINICAL EXAMINATION AND OPINIONS):

M.Ajay Mehta, aged 65 years male presented with C/o. pain in the perianal region since 2 days. C/o. unable to pass stools freely chemotherapy. Now came for nutritional intervention. Patient was managed with total parenteral nutrition intervention. Patient was managed with total parenteral nutrition (SMOF KABIVEN PERI) and other supportive measures including magnesium sulphate and glycerol dressing for hemorrhoids. Patient was started on oral liquids, tolerated well and hence oral normal diet started. ENT opinion taken in view of bleeding from nostrils and advice followed. Patient was advised regarding need of nasal endoscopy but patient refused. But patient developed breathlessness for which pulmonology consultation was taken and advice followed. Critical care consultation was taken in view of respiratory distress and advice followed. Patient was shifted to ICU in view of respiratory distress. Patient's attenders were counseled regarding need of various modalities of oxygen therapy including ventilator. Patient's attenders didn't want any intervention for the patient's condition after counseling regarding further care and management and want to have palliative and end of

UHI: 50265330

IP No. CBPZZ/20155

Name Mr.Ajay Mehata

Bed No. 312

Life care in ward. Hence patient was shifted to room with BIPAP, pain relieving medication and other supportive measures including total parenteral nutrition. Patient was treated with multiple pains relieving medications along with mild sedation. Patient's saturation dropped despite BIPAPA with maximum oxygen flow. On 10/12/2022, at 10.45 A.m. patient was not responding, BP was not recordable, pulse was not palpable, heart sounds were not heard and bilateral pupils were dilated and fixed. As patient was on palliative and end of life care, cardiopulmonary resuscitation was not done. ECG was recorded which showed no cardiac activity and hence patient was declared dead at 10.56 AM. On 10/12/2022.

Doctor who prepared death summary
Name: Dr. Daya Sagar.C
Designation:
State Medical Council Number:

Surrogate who received Death Summary
Name:
Relationship:
Signature :
Mobile No.

-32-P3

F.No.312/22/2015-OT
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

Circular No. 9/2015

Dated: 9th June, 2015

Subject: Condonation of delay in filing refund claim and claim of carry forward of losses under Section 119(2)(b) of the Income-tax Act

In supersession of all earlier Instructions/Circulars/Guidelines issued by the Central Board of Direct Taxes (the Board) from time to time to deal with the applications for condonation of delay in filing returns claiming refund and returns claiming carry forward of loss and set-off thereof under section 119(2)(b) of the Income-tax Act (the Act), the present Circular is being issued containing comprehensive guidelines on the conditions for condonation and the procedure to be followed for deciding such matters:

2. The Principal Commissioners of Income-tax/Commissioners of Income-tax (Pr.CsIT/CsIT) shall be vested with the powers of acceptance/rejection of such applications/claims if the amount of such claims is not more than ₹10 lakhs for any one assessment year. The Principal Chief Commissioners of Income-tax/Chief Commissioners of Income-tax (Pr.CCsIT/CCsIT) shall be vested with the powers of acceptance/rejection of such applications/claims if the amount of such claims exceeds ₹10 lakhs but is not more than ₹50 lakhs for any one assessment year. The applications/claims for amount exceeding Rs.50 lakhs shall be considered by the Board.
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.
4. In a case where refund claim has arisen consequent to a Court order, the period for which any such proceedings were pending before any Court of Law shall be ignored while calculating the said period of six years, provided such condonation application is filed within six months from the end of the month in which the Court order was issued or the end of financial year whichever is later.

Contd..

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5. The powers of acceptance/rejection of the application within the monetary limits delegated to the Pr.CCsIT/CCsIT/Pr.CsIT/CsIT in case of such claims will be subject to following conditions:

- i. At the time of considering the case under Section 119(2)(b), it shall be ensured that the income/loss declared and /or refund claimed is correct and genuine and also that the case is of genuine hardship on merits.
- ii. The Pr.CCsIT/CCsIT/Pr.CIT/CIT dealing with the case shall be empowered to direct the jurisdictional assessing officer to make necessary inquiries or scrutinize the case in accordance with the provisions of the Act to ascertain the correctness of the claim.

6. A belated application for supplementary claim of refund (claim of additional amount of refund after completion of assessment for the same year) can be admitted for condonation provided other conditions as referred above are fulfilled. The powers of acceptance/rejection within the monetary limits delegated to the Pr.CCsIT/CCsIT/Pr.CsIT/CsIT in case of returns claiming refund and supplementary claim of refund would be subject to the following further conditions:

- i. The income of the assessee is not assessable in the hands of any other person under any of the provisions of the Act.
- ii. No interest will be admissible on belated claim of refunds.
- iii. The refund has arisen as a result of excess tax deducted/collected at source and/or excess advance tax payment and/or excess payment of self-assessment tax as per the provisions of the Act.

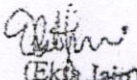
7. In the case of an applicant who has made investment in 8% Savings (Taxable) Bonds, 2003 issued by Government of India opting for scheme of cumulative interest on maturity but has accounted interest earned on mercantile basis and the intermediary bank at the time of maturity has deducted tax at source on the entire amount of interest paid without apportioning the accrued interest/TDS, over various financial years involved, the time limit of six years for making such refund claims will not be applicable.

8. This circular will cover all such applications/claims for condonation of delay under section 119(2)(b) which are pending as on the date of issue of the Circular.

Contd...

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9. The Board reserves the power to examine any grievance arising out of an order passed or not passed by the authorities mentioned in para 2 above and issue suitable directions to them for proper implementation of this Circular. However, no review of or appeal against the orders of such authorities would be entertained by the Board.


(Ektta Jain)
Deputy Secretary to Government of India

Copy to:

1. The Chairperson, Members and all officers of CBDT of the rank of Under Secretary & above
2. All Pr.CCsIT/CCsIT/Pr.DGsIT/DGsIT for circulation in their region
3. Data base cell for uploading on IRS website
4. ITCC Section, CBDT
5. DIT(PR,PP&OL) for printing in the quarterly tax bulletin and for circulation as per usual mailing list (100 copies)
6. C&AG of India (40 copies)
7. Guard File




-35- (Not con)
F.No. 312/22/2015-OT
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

Circular No. 9/2015

Dated : 9th June, 2015

Subject :- Condonation of delay in filing refund claim and claim of carry forward of losses under Section 119(2)(b) of the Income Tax Act.

In supersession of all earlier Instructions/Circulars/Guidelines issued by the Central Board of Direct Taxes (The Board) from time to time to deal with the applications for condonation of delay in filing returns claiming refund and returns claiming carry forward of loss and set-off thereof under Section 119(2)(b) of the Income Tax Act (The Act), the present Circular is being issued containing comprehensive guidelines on the conditions for condonation and the procedure to be followed for deciding such matters.

2. The Principal Commissioners of Income Tax/Commissioners of Income-Tax (Pr.CsIT/CsIT) shall be vested with the powers of acceptance/rejection of such applications/claims if the amount of such claims is not more than Rs.10 lakhs for any one assessment year. The Principal Chief Commissioners of Income Tax/Chief Commissioners of Income Tax (Pr.CCsIT/CCsIT) shall be vested with the powers of acceptance/rejection of such applications/claims if the amount of such claims exceeds Rs.10 lakhs but is not more than Rs.50 lakhs for any one assessment year. The applications/claims for amount exceeding Rs.50 lakhs shall be considered by the Board.

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 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.

4. In a case where refund claim has arisen consequent to a Court Order, the period for which any such proceedings were pending before any Court of Law shall be ignored while calculating the said period of six years, provided such condonation application is filed within six months from the end of the month in which the Court Order was issued or the end of financial year whichever is later.

5. The powers of acceptance/rejection of the application within the monetary limits delegated to the Pr.CCsIT/CCsIT/CsIT in case of such claims will be subject to following conditions:

(i) At the time of considering the case under Section 119(2)(b), it shall be ensured that the income/loss declared and/or refund claimed is correct and genuine and also that the case is of genuine hardship on merits.

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(ii) The Pr.CCIT/CCIT/Pr.CIT/CIT dealing with the case shall be empowered to direct the jurisdictional assessing officer to make necessary inquiries or scrutinize the case in accordance with the provisions of the Act to ascertain the correctness of the claim.

6. A belated application for supplementary claim of refund (claim of additional amount of refund after completion of assessment for the same year) can be admitted for condonation provided other conditions as referred above are fulfilled. The powers of acceptance/rejection within the monetary limits delegated to the Pr.CCsIT/CCsIT/ Pr.CsIT/CsIT in case of returns claiming refund and supplementary claim of refund would be subject to the following further conditions:

(i) The income of the assessee is not assessable in the hands of any other person under any of the provisions of the Act.

(ii) No interest will be admissible on belated claim of refunds.

(iii) The refund has arisen as a result of excess tax deducted/collected at source and/or excess advance tax payment and/or excess payment of self-assessment tax as per the provisions of the Act.

7. In the case of an applicant who has made investment in 8% Savings (Taxable) Bonds, 2003 issued by Government of India opting for scheme of cumulative interest on maturity but has accounted interest earned on mercantile basis and the intermediary bank at the time of maturity has deducted tax at source on the entire amount of interest paid without appointing the accrued interest/TDS, over various financial years involved, the time limit of six years for making such refund claims will not be applicable.

8. This circular will cover all such applications/claims for condonation of delay under Section 119(2)(b) which are pending as on the date of issue of the Circular.

9. The Board reserves the power to examine any grievance arising out of an order passed or not passed by the authorities mentioned in Para 2 above and issue suitable directions to them for proper implementation of this Circular. However, no review of or appeal against the orders of such authorities would be entertained by the Board.

(Ekta Jain)

Deputy Secretary to Government of India

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7. Guard File.

Intimation u/s 143(1)



आयकर केन्द्र
CENTRALIZED PROCESSING CEN
INCOME TAX DEPARTMENT

PAN : AADCM5906D | AY : 2021-22 | Ack. No. : 156269790100222

DIN : CPC/2122/A6/29055525

IT134088945IN
Name : MODI HOUSING PRIVATE LIMITED
Address : 5-4-187/3 AND 4,3RD FLOOR SOHAM MANSION,
M.G.ROAD RANIGUNJ, SECUNDERABAD Telangana
500003 INDIA
Ph : 91-9121282860

नाम : मोदी हाउसिंग प्राइवेट लिमिटेड
पता : 5-4-187/3 एण्ड 4,3व फ्लोर सोहम मॅन्शन,
एम.जी.रोड रानीगंज, सिकन्दराबाद तेलंगना 500003
इंडिया
फ़ोन : 91-9121282860



You have a Demand for A.Y. 2021-22

Amount of Demand : ₹ 69,97,780

Demand Reference No : 2022202137133975171C

ITR Form Type
ITR6 Original

Date of Filing
10/02/2022

Intimation Order Date
13/11/2022

Due Date
31/10/2021

Extended Due Date
15/03/2022

Status
Private company

Residential status
Resident

RETURN DETAILS

Sl.No.	Particulars	Reporting Heads	Amount in ₹	
			As provided by Taxpayer	As Computed u/s 143(1)
01	Taxation option	Opted for 115BAA	Yes	No
02	Income Details	Total Income	6,79,23,400	6,79,23,400
03	Tax Details	Tax Liability after relief	1,70,94,962	2,26,75,547
04	Interest and Fee Payable	Total Interest And Fee (234A, 234B, 234C & 234F)	27,08,964	45,38,886
05	Pre-paid Taxes	Total Taxes Paid (Advance Tax, TDS, TCS, Self Assessment Tax)	2,02,16,655	2,02,16,655
06	Tax Payable	Net Amount Payable	0	69,97,780

N SAYIRAJ
Asst. Director of Income Tax, CPC
Bengaluru

Intimation u/s 143(1)



आयकर केन्द्र
CENTRALIZED PROCESSING CENTER
INCOME TAX DEPARTMENT

Name : MODI HOUSING PRIVATE LIMITED
Address : 5-4-187/3 AND 4,3RD FLOOR SOHAM MANSION, M.G.ROAD RANIGUNJ,
SECUNDERABAD Telangana 500003 INDIA
Ph : 91-9121282860

38

नाम: मोदी हाउसिंग प्राईवेट लिमिटेड
पता: 5-4-187/3 एण्ड 4,3वें फ्लोर सोहम मॅन्शन, एम.जी.रोड रानीगंज,
सिकन्दराबाद तेलंगना 500003 इंडिया
फ़ोन: 91-9121282860

PAN : AADCM5906D

AY : 2021-22

Ack. No. : 156269790100222

DIN : CPC/2122/A6/290555290

You have a Demand for A.Y. 2021-22

Amount of Demand : ₹ 69,97,780

Demand Reference No : 2022202137133975171C

ITR Form Type
ITR6 Original

Date of Filing
10/02/2022

Intimation Order Date
13/11/2022

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31/10/2021

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06	Tax Payable	Net Amount Payable	0	69,97,780

Signature Not Verified
Digitally signed by
N SAYIRAJ
DN: cn=N SAYIRAJ, o=Income Tax Department, ou=Income Tax Department, email=N.SAYIRAJ@IN.TAX.INDIA.GOV, c=IN

N SAYIRAJ

Asst. Director of Income Tax, CPC
Bengaluru

Intimation u/s 143(1)



आयकर केन्द्र
CENTRALIZED PROCESSING CENTER
INCOME TAX DEPARTMENT

Name : MODI HOUSING PRIVATE LIMITED

PAN : AADCM5906D

AY : 2021-22

Ack. No. : 156269790100222

DIN : CPC/2122/A6/290555290

39

Amount in ₹
As provided by Taxpayer As Computed u/s 143(1)

Sl.No.	Particulars	Reporting Heads	As provided by Taxpayer	As Computed u/s 143(1)
01	HEADS OF INCOME	Income under the head house property	0	0
02		Income under the head profit and gains from business or profession	6,72,58,063	6,72,58,063
03		Income under the head capital gains	0	0
04		Income under the head other sources	6,65,336	6,65,336
05		Intra head adjustments	0	0
06		Total (after intra head adjustments) [6=(1+2+3+4-5)]	6,79,23,399	6,79,23,399
07		Losses of current year set off against 6	0	0
08		Balance after set off current year losses [8=(6-7)]	6,79,23,399	6,79,23,399
09		Brought forward losses set off against 8	0	0
10		Gross total income [10=(8-9)]	6,79,23,399	6,79,23,399
11	SPECIAL INCOME	(i) Income chargeable to tax at special rate u/s 115BBE	0	0
		(ii) Income chargeable to tax at special rate other than section 115BBE	0	0
12	DEDUCTIONS UNDER CHAPTER VIA	(a) Part-B of Chapter VI-A	0	0
		(b) Part-C of Chapter VI-A	0	0
		(c) Total [(12a + 12b)]	0	0
13		Deduction u/s 10AA	0	0
14		Total income [14=(10-12(c)-13)]	6,79,23,400	6,79,23,400
15		Income chargeable to tax at special rates	0	0
16		Income chargeable to tax at normal rates (14-15)	6,79,23,400	6,79,23,400
17		Net agricultural income	0	0
18		Loss of current year to be carried forward	0	0
19		Deemed total income u/s 115JB	0	7,82,30,959
20	TAX DETAILS U/S 115JB	Tax payable on deemed total income u/s 115JB	0	1,17,34,644
21		Surcharge on above 20	0	8,21,425
22		Health and Education Cess @ 4%, on (20+21) above	0	5,02,243
23		TOTAL TAX PAYABLE u/s 115JB [23=(20+21+22)]	0	1,30,58,312
24	TAX PAYABLE ON TOTAL INCOME	Tax at normal rates on 16 of above	1,49,43,148	2,03,77,020
25		(i) Tax on section 115BBE	0	0
		(ii) Tax on special income other than section 115BBE	0	0
26		Tax Payable on Total Income [26=(24+25(i)+25(ii))]	1,49,43,148	2,03,77,020
27		Surcharge on above 26	0	0
		(i) 25% of Tax on deemed income chargeable u/s 115BBE	0	0
		(ii) On [(sl no. 26) - (tax on deemed income chargeable u/s 115bbe)] (applicable if 14 exceeds 1 crore)	14,94,315	14,26,391
		(iii) Total (i + ii)	14,94,315	14,26,391
28		Health and education cess @4% on (26+27(iii))	6,57,499	8,72,136
29		Gross Tax Liability [29=(26+27(iii)+28)]	1,70,94,962	2,26,75,547
30		Gross tax payable (higher of 23 or 29)	1,70,94,962	2,26,75,547
31		Credit u/s 115JAA of tax paid in earlier years (if 29 is more than 23)	0	0