



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 20337 OF 2026 (T-IT)

BETWEEN:

INDUSTRIALISTS & PROFESSIONALS
MULTIPURPOSE CO OP
SOCIETY LIMITED, NO 19722,
REGISTERED UNDER THE
KARNATAKA CO-OPERATIVE
SOCIETIES ACT, 1959
NETHAJI SUBASH CHANDRA
BOSE ROAD, BYPASS ROAD,
KUSHALNAGAR,
KUSHALNAGAR TALUK,
KODAGU 571234.
PAN AABAN6823G

REPRESENTED BY SRI SRIJESH B D,
CEO OF THE PETITIONER
AGED 46 YEARS,
S/O DEJAPPA B S,
RESIDING AT 3RD BLOCK,
INDIRA BADAVANE,
KUSHALNAGAR

...PETITIONER

(BY SRI. RAVI SHANKAR S V., ADVOCATE)

AND:

1. THE INCOME TAX OFFICER
WARD - 1 AND TPS,
MADIKERI - 571201

Digitally
signed by
VANAMALA
N

Location:
HIGH
COURT OF
KARNATAKA



2. NATIONAL FACELESS
ASSESSMENT CENTRE,
REPRESENTED BY ADDITIONAL/
JOINT/DEPUTY/
ASSESSMENT UNIT
COMMISSIONER OF INCOME TAX/
INCOME TAX OFFICER,
INCOME TAX DEPARTMENT,
MINISTRY OF FINANCE,
ROOM NO. 401, 2ND FLOOR, E-RAMP,
JAWAHARLAL NEHRU STADIUM,
DELHI - 110003.
3. NATIONAL FACELESS APPEAL CENTRE,
DELHI "C" BLOCK,
4TH FLOOR, DR S.P. MUKHERJEE
CIVIC CENTRE,
NEW DELHI - 110002
REP. BY COMMISSIONER
OF INCOME TAX

...RESPONDENTS

(BY SRI. M THIRUMALESH, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 & 227
OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A
WRIT OF CERTIORARI OR DIRECTION IN THE NATURE
OF A WRIT OF CERTIORARI QUASHING THE ORDER
PASSED U/S 144 R.W.S 144B DATED 16/09/2022
BEARING DIN ITBA/AST/S/144/2022- 23/1045577258
(1) PASSED BY THE RESPONDENT NO.2 FOR THE
ASSESSMENT YEAR 2020-21 HEREIN MARKED AS
ANNEXURE A. II) QUASHING THE PENALTY ORDER



DATED 21/03/2023 PASSED U/S 272A(1)(D) OF THE ACT BEARING DIN ITBA/PNL/F/272A(1)(D)/2022-23/1051067820(1) BY THE RESPONDENT NO.2 FOR THE ASSESSMENT YEAR 2020-21 HEREIN MARKED AS ANNEXURE - A1. III) QUASHING THE PENALTY ORDER DATED 25/05/2026 PASSED U/S 270A OF THE ACT BEARING ITBA/PNL/F/270A/2026-27/1089171327(1) BY THE RESPONDENT NO.2 FOR THE ASSESSMENT YEAR 2020-21 HEREIN MARKED AS ANNEXURE - A2. IV) QUASHING THE PENALTY ORDER DATED 26/05/2026 ISSUED U/S 271AAC(1) OF THE ACT BEARING DIN ITBA/PNL/F/271AAC(1)/2026-27/1089216526 (1) BY THE RESPONDENT NO.2 FOR THE ASSESSMENT YEAR 2020-21 HEREIN MARKED AS ANNEXURE A3

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

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



ORAL ORDER

The petitioner has called in question the Assessment Order dated 16.09.2022 under Section 144 read with Section 144B of the Income Tax Act, 1961 [for short, '*the Act*'] and the consequential Penalty Orders under Section 272A[1][d], 270A and 271AAC[1] of the Act. The impugned Assessment Order and the Penalty Orders are produced as *Annexures – A, A1 to A3*.

2. The petitioner has filed an appeal against the afore Assessment Order with the concerned Commissioner of Income Tax [Appeals] under Section 250 of the Act, and the appeal is dismissed on the ground of limitation. The petitioner has filed an application for condonation of delay of 123 days in filing the appeal stating that its President was hospitalized during the relevant time because of a heart condition and therefore the President of the Society, was not in a position to grant the required



approval. The Commissioner of Income Tax [Appeals], after referring to different decisions, has opined that the reason offered by the petitioner's representative will not constitute *sufficient cause* for condonation of delay and has rejected the appeal.

3. Sri Ravishankar S V, the learned counsel for the petitioner, arguing for interference with the Assessment Order, submits the following stating that the petitioner's grievance would be redressed if the proceedings are restored with opportunity to file a response to the Show Cause Notice preceding the impugned Assessment Order.

[A] The Assessment Order is an *ex parte* order, and the entire receipt is treated as undisclosed income resulting in a demand at the rate of 78% of the entire receipt.

[B] After the impugned Penalty Orders, the petitioner's bank accounts are frozen and if the petitioner has to avail further appeal



with the Income Taxable Appellate Tribunal, the petitioner, who has to pay 20% of the Demand, will not be in a position to offer such deposit.

[C] The petitioner is *bona fide* in stating that its President was hospitalized during the relevant period, and as such, there was a delay in filing the appeal.

4. Sri Ravishankar S V invites this Court's attention to the proviso to Section 251[1][a]¹ of the

¹ 251 (1) *In disposing of an appeal, the Commissioner (Appeals) shall have the following powers—*

(a) *in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment :*

Provided that where such appeal is against an order of assessment made under section 144, he may set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment

(3) *The Joint Commissioner (Appeals) or the Commissioner (Appeals) may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.*



Act to canvass that the Commissioner of Appeals, if in a given circumstance, is satisfied with the reasons offered may set aside the *ex parte* Order under Section 144 of the Act and refer the case back to the Assessing Officer for making a fresh assessment. Sri M Thirumalesh, a learned standing counsel for the respondents who accepts notice for the respondents, is heard on whether this Court must interfere in the afore circumstances.

5. The petitioner's appeal undisputedly is belated by 123 days, and it is also not in serious contest that the petitioner's representative was hospitalized during the relevant time. The question of lack of due diligence and *sufficient cause* essential for condoning the delay in filing the appeal must be considered in these circumstances, and this Court is of the view that mere reference to certain decisions would not amount to a due consideration of all



circumstances to decide on whether there must be condonation of delay.

6. The petitioner's case is that it's President was hospitalized during the relevant time because of a heart condition, and this is not in serious dispute. Therefore, this Court finds reason to interfere with the impugned Order-in-Appeal. The assessment proceedings are concluded *ex-parte*, and because the Commissioner Income Tax [Appeals] could also, as contemplated under the proviso to Section 251[1][a] of the Act, interfere with the Assessment Order and restore the proceedings for fresh assessment, this Court is of the view that there must be an interference with the impugned *ex parte* Assessment Order and the Penalty Orders restoring the proceedings for fresh consideration. In the light of the afore, the following.

ORDER

[A] The petition is allowed in-part.



[B] The impugned Assessment Order dated 16.09.2022 *[Annexure-A]* and the Penalty Orders under Section 272A[1][d], 270A and 271AAC[1] of the Act *[Annexures-A1 to A3]* are set aside restoring the proceedings to the second respondent for fresh consideration with liberty to the petitioner to respond to the Show Cause Notice dated 29.08.2022 and the petitioner shall file such Response upon intimation of the enablement thereof on the portal.

Sd/-
(B M SHYAM PRASAD)
JUDGE

AN/-