IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 22572 of 2014
Date of Decision:- 28.04.2015

New Truck Operator Union, Doraha ......Petitioner(s)

vs.

The Commissioner of Income Tax-II, Ludhiana ......Respondent(s)

CORAM:- HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present:- Mr. Rohit Sud, Advocate, for the petitioner.

Ms. Savita Saxena, Advocate, for the respondent.

S.J. VAZIFDAR, A.C.J. (Oral)

The petitioner has challenged the order dated 22.09.2014 (Annexure P-1) rejecting its application for refund on the ground that the return of income was filed beyond the time prescribed under Section 139(4) of the Income Tax Act, 1961 (in short 'the Act').

The Commissioner of Income Tax held that due to the late filing of the return, the scrutiny of the case may not be taken up and accordingly, the genuineness of the accounts/income of the assessee could not be ascertained. The application for condoning the delay was rejected on the ground that the assessee had given different reasons for the late filing of the return.

The assessee is an Association of Persons (in short 'AOP') comprising of various truck operators. The authorized person of the AOP was out of town for a part of the relevant period. Further, the authorized person of the AOP was under the belief that the return had been filed by e-filing. When the authorized representatives of the assessee inquired about the refund, they came to know that the return had not been filed.

In these circumstances, we see no reason to prejudice all the members of the AOP on account of the difficulties faced by the authorized person of the AOP.

In the event of the record not substantiating the claim for refund, the same can always be rejected. There is no warrant for denying the petitioner's case being considered on merits.

In the circumstances, the petition is allowed. The impugned order is quashed and set aside. The application shall be decided on merits. Needless to add that all the issues including regarding the genuineness of the claim are kept open.

No order as to costs.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

28.04.2015
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