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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (T) No. 272 of 2017

Vijendra Singh S/o late Shri Vijay Singh, aged about 42 years, Ameri Road, near St. Francis School, Shanti Nagar, P. S. Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. The Union of India through Secretary, Central Board of Direct Taxes, North Block, New Delhi,
2. The Principal Commissioner of Income Tax, Aaykar Bhawan, Vyapar Vihar, P. S. Tarbahar, Tahsil & District Bilaspur, Chhattisgarh.
3. The Deputy Commissioner of Income Tax-1 (1), Present Address : Income Tax Office, Mahima Complex, Vyapar Vihar, P. S. Tarbahar, Tahsil & District Bilaspur, Chhattisgarh. P I N 495001

---- Respondents

For Petitioner	:	Shri S. Rajeshwara Rao, Advocate
For Respondents 2 & 3	:	Smt. Naushina Afrin Ali, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

11/08/2017

The petitioner in the instant petition has sought for a relief of reconsideration of order dated 28.04.2017 Annexure P-1 and also for keeping the notice under Section 147 of the Income Tax Act in abeyance which was issued on 26.03.2017.

2. Grievance of the petitioner is that the petitioner under the Income Declaration Scheme, 2016 had declared income of Rs.10,30,5,000/- and the first installment fell due by 30th of November,2016.

3. Contention of the counsel for the petitioner is that on the said date when the petition went to the Bank for depositing the first installment, for some technical fault on the part of the Bank, the installment could not be deposited. Thereafter, the petitioner is said to have approached the respondents immediately and an email was also sent on the very next day yet there was no response. Meanwhile, the petitioner went on corresponding with respondent no.2. Finally before the second installment fell due, the petitioner deposited the first as well as the second installment on 21st of March 2017. The petitioner also moved an application for condonation of delay for payment of the first installment which perhaps has been refused to entertain by the respondents and they have initiated proceeding under Section 147 of the Income Tax Act.

4. Counsel for the petitioner submits that the conduct of the petitioner itself would reflect that at no point of time was there any intention on the part of the petitioner in not fulfilling the commitment that he had made under the voluntary disclosure of income. Further he had been approaching the Authority concerned repeatedly from the very first day itself, therefore, the Authorities ought to have taken a pragmatic and liberal view on the application for condonation of delay. Thus, counsel for the petitioner prays that the Authorities may be directed to reconsider the said application.

5. Counsel appearing for the Department, however, opposing the petition submits that since the first installment could not be paid as per the Schedule, the respondents are justified in initiating the appropriate proceeding under Section 147 of the Act.

6. Be that as it may, taking into consideration the date-wise details which the petitioner has given in the writ petition including the efforts that he had made on 30th of November, 2016 that was the date on which the first installment was supposed to be made, this Court is of the opinion that prima facie, the conduct of the petitioner does not appear to be an act on his part trying to avoid the payment of installment at any point of time. Thus, ends of justice would meet if the respondent no.2 the Principal Commissioner is directed to reconsider the application for condonation of delay keeping in view the fact that the petitioner has been making sincere efforts in depositing the installment in time and that he has subsequently shown his bonafide in depositing the second installment along with the first installment on 21st March, 2017 i.e. much before the last date of payment of the second installment.

7. In view of the same, let the respondent no.2 take a fresh decision on the application of the petitioner for condonation of delay. Till a fresh decision is taken by the respondent no.2, it is ordered that the Authorities shall not proceed with the reassessment proceeding initiated against the petitioner.

8. With the aforesaid observations, the writ petition stands disposed off.

Sd/-

(**P. Sam Koshy)**
JUDGE

Bhola