IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.18588 of 2018
and
W.M.P.No.21935 of 2018

M/s. GLR Laboratories Pvt.Ltd.
Rep. by its Director
and the authorized representative,
S.S.Murugan
No.2, Venkateswara Colony,
10th Street, Madhavaram Milk Colony,
Chennai - 600 051. ... Petitioner

vs.

The Chief Commissioner of Income Tax-2,
121, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings in C.No.2140/CCIT-2/ Condonation/2018-19 dated 10.05.2018 before the respondent, quash the same and thereby consequently direct the respondent to condone the delay in claiming the carry forward of the loss for the Assessment Year 2011-12.

For Petitioner : Mr.J.V.Niranjan
For M/s.Niranjan and Associates

For Respondents : Mrs.Hema Muralikrishnan,
Sr.Standing Counsel for Income Tax.

O R D E R

The petitioner is aggrieved against the order of the respondent dated 10.05.2018, wherein and whereby, the application filed by the petitioner to condone the delay in filing the return for the assessment year 2011-12 was rejected.

2. Heard both sides. Perused the materials placed before this Court.

3. The petitioner is a Private Limited Company. In respect of the assessment year 2011-12, they filed a return on 19.11.2011 with a delay of 50 days in filing such return. Through the said return, the petitioner carried forward the loss from the previous assessment year. Even in respect of the subsequent assessment years, the petitioner made such carry forward of loss. However, the Revenue took the return filed for the assessment year 2015-16 alone for scrutiny on random selection by computer. The Revenue found that the assessee wrongly claimed the carry forward and thus, disallowed the claim of the petitioner to carry forward the loss in respect of such assessment year. Only after such scrutiny of assessment, the assessee filed a petition for condonation of delay in filing the return for the assessment year 2011-12. Such application was rejected by the impugned order on the reason that the petitioner has not established clearly that the return could not be filed due to computer crash on 30.08.2011 as claimed in the said petition. The case of the petitioner before this Court is that the return was filed with such delay of 50 days, only due to the reason that the computer at the petitioner Company had crashed at the relevant point of time, which is evident by the reports submitted by the technician who attended the call. The said reports dated 30.08.2011, 30.09.2011 and 16.11.2011 are placed in the typed set of papers wherein it is stated that the computer was not booting.

4. It is seen that that petitioner has specifically made such averments in the petition seeking to condone the delay. However, the respondent has chosen to reject such reason without having any contra material to disprove such contention raised by the petitioner. Moreover, it is seen that Circular No.9/2015 dated 09.06.2015 issued by the Board also contemplates that such filing of condonation application is permissible within a period of six years from the date of filing of the return.

5. When such being the factual position, I do not think that the respondent is justified in rejecting the condonation application without considering the supportive documents filed by the petitioner, namely, the above reports of the technician. Therefore, I find every justification in allowing the writ petition. Accordingly, the Writ Petition is allowed and the impugned order is set aside. The result of this order, thus, allowed the condone delay petition filed by the petitioner before the respondent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

// True Copy//

Sub Assistant Registrar

vsi

To

The Chief Commissioner of Income Tax-2,
121, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034.

+1cc to Mr.Hema Muralikrishnan, Advocate SR.No.62231
+1cc to Mr.J.V.Niranjan, Advocate SR.No.62393

W.P.No.18588 of 2018

VD(CO)
RMP(20/09/2018)