IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26672 of 2023
and
W.M.P.No. 26105 & 26106 of 2023

E.P.Muthukumar (HUF)
Erangattur Kallipatti Via,
Perumugai – 638 505. ... Petitioner

Vs

1. The Principal Commissioner of Income-Tax,
   Coimbatore -1, Race Course Road,
   Coimbatore – 641018.

2. The Income Tax Officer,
   The National Faceless Assessment Centre,
   Delhi. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records of the first respondent in DIN & Order No.ITBA/REV/F/REV7/2023-24/1054979866(1) relating to the Assessment year 2017-18 dated 09.08.2023 and quash the same.

For Petitioner : Mr.T.Vasudevan

For Respondents : Mr.R.S.Balaji
Senior Standing Counsel

ORDER

Mr.R.S.Balaji, learned Senior Standing Counsel takes notice on behalf of the respondents.

2. Heard the learned counsel for the petitioner and learned Senior Standing Counsel for the respondents.

3.This writ petition is being disposed of at the time of admission, as the impugned order has been passed on the sole ground the petitioner has not filed an application to condone the delay in filing the application under Section 264 of the Income Tax Act against the Assessment order dated 24.09.2021 for the Assessment year 2017-18.

4. Although the petitioner has given reasons in para 7 as to why the petitioner could not participate in the proceedings prior to passing of

the Assessment order dated 24.09.2021 and the reasons for not filing the application under Section 264 of the Act in para 11 of the application, it was incumbent on the part of the petitioner to file a separate application in the form of Miscellaneous Petition for condoning the delay in filing the application for revision under Section 246 of the Income Tax Act, 1961 against the order dated 24.09.2021.

5. Considering the above, the impugned order is quashed and the case is remitted back to the respondents to pass a fresh order on merits, subject to the petitioner filing a Miscellaneous Petition to condone the delay in terms of proviso to Section 264(3) of the Income Tax Act, 1961, within a period of 30 days from the date of receipt of a copy of this order. Subject to such compliance, within such time, the respondents shall pass appropriate orders on the application for condoning the delay. In case, the delay is to be condoned based on the averments in the petition proposed to be filed by the petitioner within such time, the application/revision shall be considered and disposed the same on merits.

6. This Writ Petition stands disposed of with the above observation. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

12.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
jas

To

1. The Principal Commissioner of Income-Tax,
   Coimbatore -1, Race Course Road,
   Coimbatore – 641018.

2. The Income Tax Officer,
   The National Faceless Assessment Centre,
   Delhi.

C.SARAVANAN, J.

jas

W.P.No.26672 of 2023
and
W.M.P.No.26105 & 26106 of 2023

12.09.2023