HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-17601-2023
Date of decision:11.08.2023

Jasvinder Pal Singh **....Petitioner**

V/s.

Union of India and others **....Respondents**

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. J.S.Jaidka, Advocate
for the petitioner.

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Ritu Bahri, J.

1. The petitioner is seeking writ in the nature of certiorari for quashing of order dated 03.07.2023 (Annexure P-1) whereby his application for condonation of delay under Section 119(2)(B) of the Income Tax Act, 1961 (in short 'Act') for filing revised ITR for the assessment year 2020-21 has been disallowed.

2. The petitioner had retired from the services of the Punjab State Power Corporation Limited on 31.12.2019 and vide impugned order dated 03.07.2023 (Annexure P-1), his claim seeking refund of the income tax on leave encashment for A.Y. 2020-21 has been disallowed on the ground of delay.

3. Notice of motion.

4. Mr. Saurabh Kapoor, Senior standing Counsel accepts notice on behalf of respondent No. 4 and Mr. Ankit Chowdhri, Advocate puts in appearance and files memo of apperance on behalf of respondents No. 7 and 8.

5. Learned counsel for the petitioner states that similar benefit has been extended to another retired employee vide order dated 26.11.2022 (Annexure P-7).

6. A perusal of the order dated 26.11.2022 (Annexure P-7) shows that appellate authority has considered provision of Section 10(10AA) which relates to exemption of income tax on the amount of leave encashment received on retirement. In that case, exemption from income tax was allowed with respect to 3 lacs out of Rs.5,64,502/- and Rs.2,64,502/- was added to the returned income holding that the assessee was not a government employee. However, the appellate authority, on appeal, reversed the finding and the entire leave encashment of Rs. 5,64,502/- was totally exempted from income tax under Section 10(10AA) of the Act as he had retired from Punjab State Power Corporation Limited which is wholly owned Government Company as 100% equity is held by the Government of Punjab.

7. Applying the ratio of aforesaid case in the facts of the present case, the petitioner is also retired employee from respondent No. 7-Punjab State Power Corporation Limited and in the present case, application for exemption of leave encashment from income tax is dismissed on the technical ground of delay.

8. Writ petition is allowed. Order dated 03.07.2023 (Annexure P-1) is set aside and the matter is remanded back to the competent authority-respondent No. 4 to pass a fresh order after examining provision of Section 10(10AA) of the Act and order dated 26.11.2022 (Annexure P-7), within a period of six weeks from the date of receipt of certified copy of this order.

(RITU BAHRI)
JUDGE

11.08.2023
Divyanshi

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No