WPA 2683 OF 2024

08.04.2024
Sl no. 7
Ct no. 2
P.M.

Alcove Developers LLP & Anr.
- Vs -
Principal Chief Commissioner of Income Tax & Ors.

Mr. Abhratosh Majumder, Sr. Adv.
Mr. Avra Mazumder,
Mr. Arvind Agarwal,
Mr. Farhan Ghaffar
… for the petitioners
Mr. Amit Sharma
.. for the respondents.

Heard learned advocates appearing for the parties.

Petitioners have filed this writ petition being aggrieved by the impugned order dated 19th December, 2023, passed by the Principal Commissioner of Income Tax, Kolkata – 9, rejecting the application of the petitioners for condonation of delay of 23 days in filing the Income Tax Return relating to assessment year 2022-2023.

Petitioner has challenged the aforesaid impugned order passed by the Principal Commissioner on the ground that the same is without jurisdiction in view of circular No. 7 of 2023 dated 31st May, 2023 issued by the CBDT, particularly in view of paragraph 2(iv) of the aforesaid circular which has been drawn to the attention of this Court from which it appears that such type of application for condonation of delay shall be considered only by the Board if claim exceeds Rs. 3 crores and admittedly in the case of the petitioners the amount involved is in excess of Rs. 13 crores.

According to the petitioners the application for condonation of delay in filing the return was filed before the Chairman, CBDT on 17th November, 2023 which is still pending and only a copy of such application was forwarded to the Principal CIT while the Principal CIT wrongfully in contravention of the aforesaid circular of the Board dated 31st May, 2023, assumed and exercised its jurisdiction and rejected the aforesaid application for condonation of delay filed by the petitioners, dated 17th November, 2023 not only on the ground of delay, in excess of his jurisdiction rather had gone into the merit of the said application for condontion of delay which clearly appears on perusal of the aforesaid impugned order.

Considering the admitted facts and circumstances of this case and taking into consideration the aforesaid circular of the Board, dated 31st May, 2023, I am of the view that keeping the matter pending and calling for affidavits will not serve any purpose and in view of admitted facts and circumstances the respondent authority will not be able to improve the case and considering all these aspects the aforesaid impugned order dated 19th December, 2023, is set aside and the respondent CBDT is directed to consider and dispose of the aforesaid application of the petitioner under Section 19(2)(b) of the Act dated 17th November, 2023, being annexure P/9 to the writ petition in accordance with law and by passing a reasoned and speaking order after giving an opportunity of hearing to the petitioners or its authorised representatives either physically or online, within a period of eight weeks from the date of communication of this order without granting any unnecessary adjournments to the parties. Till the disposal of the aforesaid application by the Board no coercive action shall be taken by the respondents.

It is clarified that this Court has not gone into the merit of the aforesaid application of the petitioners and the same shall be considered and decided by the authority concerned on its own merit.

With this observation and direction this writ petition being WPA 2683 of 2024 is disposed of.

(Md. Nizamuddin, J.)