**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 10.09.2024**

**Coram**

The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No.10018 of 2023**
and
W.M.P.Nos.10066 & 10067 of 2023

Real Link Engineering India Pvt. Ltd.,
Rep. By Director Mr.Navaneetha Krishnan
No.4, Park Street, Kattoor,
Coimbatore – 641 009,
Tamil Nadu. Petitioner

Vs.

Principal Commissioner of Income Tax-1,
Coimbatore, No.67-A, Race Course Road
Coimbatore – 641 018. Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order in DIN & Letter No.ITBA/COM/F/17/2022-23/1049392874(1) of the respondent dated 03.02.2023, and to quash the same as illegal and consequently, to direct the respondent to permit the petitioner to file the income tax return for the assessment year 2021-22.

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| For Petitioner | : | Mr.R.Sivakumar for<br>M/s. S.Sarath Chandran |
| For Respondent | : | Dr.B.Ramaswamy<br>Senior Standing Counsel |

**O R D ER**

The challenge in this Writ Petition is to the order passed by the respondent dated 03.02.2023, whereby, the petitioner's application was rejected and to quash the same as illegal and consequently, to direct the respondent to permit the petitioner to file the income tax returns for the assessment year 2021-22.

**2.** The facts of the case is that, the petitioner attempted to file the Income Tax Returns for the Assessment Year 2021-22 on 26.12.2022, however, due to delay in filing the same, the IT portal refused to accept it, hence, the petitioner filed an application for condonation of delay, but, the same was rejected vide the impugned order dated 03.02.2023. Hence, the present Writ Petition.

**3.** Mr.R.Sivakumar, the learned counsel appearing for the petitioner would submit that due to Covid-19, the petitioner-Company's operations were stopped abruptly, and power connections were also cut in the Factory since electricity charges were not paid due to heavy loss; that in the meantime, the server of the Computer, where, the petitioner used to maintain accounts got corrupt due to which, data's were also lost, hence, the petitioner was not in a position to file Income Tax Returns in time, however, immediately upon reconstruction of records, the petitioner filed the returns for the AY 2021-22, since there was a delay in filing the returns and further, IT portal also refused to accept the same, the petitioner filed an application for con donation of the delay, however the respondent, without considering all these aspects in a proper perspective, rejected the Application vide the impugned order, which necessitated the petitioner to approach this Court challenging the said order dated 03.02.2023.

**3.1** The learned counsel further contended that the petitioner has been prompt in filing the returns for the past Assessment Years and subsequent Assessment Years, only in respect of the subject assessment year (i.e.2021-

22), that too, owing to the unforeseen circumstances, the petitioner was not in a position to file returns in time, and that the petitioner is ready to pay the costs for such delay, if any, imposed by this Court, hence, prayed for setting side the impugned order.

**4.** DR.B.Ramaswamy, learned Senior Standing Counsel for the respondent raised strong objections for allowing the Writ Petition by stating that since the petitioner failed to provide sufficient reason for condoning the delay, the impugned order came to be passed against the petitioner, at any costs, the petitioner is supposed to file returns in time and having failed to do so, it is totally unfair on their part to make hue and cry, as if, injustice has been meted out to them. One other reason cited for dismissal of the Writ Petition by the learned Standing Counsel is that, in case, this Court is setting aside the impugned order, it would obviously, set a bad precedent for the assessees, who are irregular in filing returns and thus, prayed for dismissal of the Writ Petition.

**5.** I have taken into consideration the submission made by the learned counsel on either side and perused the materials on record.

**6.** On perusal of records, it is seen that due to outbreak of Covid-19 and lock down throughout the Country since March 2020, the petitioner-Company's operations were stopped abruptly, therefore, the petitioner-Company faced with a huge loss, resulting in non-payment of the electricity charges, due to which, power connections were also cut in the Factory, apart from the same, due to non-usage of the Computer, the server of the Computer, where, the petitioner used to maintain accounts got corrupt and hence, all the Computer data backups were lost, hence, the petitioner was not in a position to file Income Tax Returns in time, however, as and when, the petitioner was able to reconstruct the lost records, they filed returns for the AY 2021-22 and that since there happened to be delay of nine months in filing the returns, (as the due date for filing the returns was on or before 15.03.2022), the petitioner has rightly taken out an Application for condonation of the delay, clearly setting out the reasons for the delay.

**7.** Thus, the delay on the part of the petitioner in filing the returns is neither willful nor wanton, but, purely owing to unforeseen circumstances, therefore, the respondent before rejecting the application ought to have taken into consideration of all the aforesaid aspects. Further, the respondent also failed to consider the vital factor that the petitioner is not a habitual offender, to file returns with a delay and that excluding the subject AY (i.e. 2020-21) the petitioner has been prompt in filing the returns in respect of the past Assessment Years and subsequent Assessment Years. Hence, this Court is of the considered view that the reasons assigned by the petitioner for the delay is genuine and reasonable, and is inclined to condone the delay, however, subject to payment of costs, as agreed by the petitioner.

**6.** Thus, in the light of the aforesaid facts and circumstances of the case, this Court is inclined to pass the following orders :-

i) The Delay in filing the Income Tax Returns is condoned

ii) The impugned order dated 03.02.2023 is set aside.

Iii) However, it is made clear that the benefit of this order will enure to the petitioner only upon payment of Rs.10,000/- to the Adyar Cancer

Insitute, situated at Chennai, within a period of four weeks from the date of receipt of a certified copy of this order.

iv) As and when, the petitioner produces the proof for having made such payment before the respondent, the respondent shall pass assessment orders in accordance with law

**7.** In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected W.M.P.No.10066 of 2023, viz., Dispense With Petition is ordered and W.M.P.No.10067 of 2023, viz., the Petition for Stay is closed.

**10.09.2024**

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**Index : Yes/No**
**Speaking Order/Non Speaking order**

**Krishnan Ramasamy, J.,**

W.P.No.10018 of 2023

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