IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Dated : 25.09.2024**

Coram

**The Hon'ble Mr.Justice Krishnan Ramasamy**

**W.P.No.23486 of 2023 and**
**W.M.P.No.23003 of 2023**

C.Ramappa,
Legal Representative of
Late.Chinna Keerappa ...Petitioner

Vs.

1. The Principal Commissioner of Income Tax,
63, Race Course Road, Coimbatore-641 018.

2. The Income Tax Officer,
Hosur Ward-1, Hosur-635 109.

3. State Industrial Promotion Corporation of TamilNadu
Limited (SIPCOT), SIPCOT Industrial Complex,
Hosur-635 126 ... Respondents

*R3 Suo Motu impleaded vide Order*
*dated 10.08.2023 made in W.P.No.23486/2023*

**Prayer:** This 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/COM/F/17/2022-23/1050933177(1) dated 18.03.2023 for the assessment year 2011-12 and quash the same.

For Petitioner : T.Vasudevan

For Respondents 1 & 2 : Dr.B.Ramaswamy
Senior Standing Counsel

For Respondents 3 : Mr.R.Revathi

**ORDER**

Challenging the impugned order dated 18.03.2023 passed by the first respondent, the petitioner has filed the present Writ Petition.

2. The learned counsel for the petitioner submitted that the petitioner has filed a petition before the Central Board of Direct Taxes (in short, CBDT) under Section 119(2)(b) of the Income Tax Act, 1961, requesting for condonation of delay for furnishing the Income Tax Return for the Assessment Year 2011-2012. However, the said petition was rejected by CBDT. Hence, the present Writ Petition.

2.1. The learned counsel for the petitioner would further submit that unless and otherwise the condonation of delay petition is considered by the CBDT, the petitioner is not entitled to get the refund. Initially the petitioner had filed the return of income on 31.03.2015 for the Assessment Year 2011-2012 and the last date for filing the return of income for the assessment year 2011-2012 is on or before 31.07.2011. Since the petitioner was an agriculturist and not aware of the statute and the due date for filing the return, the petitioner has filed the return of income, with a delay period of four years. Further, he submitted that while filing the return of income, the refund claim has also been made by the petitioner. However, the same was not considered by the respondent, on the ground that there was a delay in filing the return of income and the refund claim was also not granted to the petitioner. Further, the petitioner also addressed a letter to the second respondent on 04.07.2022, requesting to refund the amount of Tax Deducted at Source (TDS), since there would be no tax liability on the compensation received for the compulsory acquisition of agricultural lands. Till date, the request made by the petitioner for refund the amount of TDS was not at all considered by the respondents. Hence, the petitioner filed the present Writ Petition for passing the appropriate orders.

3. Dr.B.Ramaswamy, learned Senior Standing Counsel strongly denied the contention made by the learned counsel for the petitioner and submitted that the question of filing an application under section 119(2)(b) of the Act, does not at all arise in the present writ petition. Since the petitioner had filed the return of income belatedly, the refund claim was rejected by the first respondent. If at all the petitioner had any grievance, the petitioner has to approach the appropriate Authority by virtue of filing the refund claim application. Therefore, he submitted that in pre-mature manner, without any

jurisdiction, the petitioner has filed an application before CBDT by invoking Section 119(2)(b) of the Act, requesting for condonation of delay for furnishing the Income Tax return. Further, he submitted that even if this Court condone the delay, it is immaterial, as the same cannot be processed without any proper application to refund the claim before the appropriate Authority.

4. I have given due consideration on the submissions made by the learned counsel for the petitioner as well as the learned Senior Standing Counsel for the respondent and also perused the materials available on record.

5. In the present case, the petitioner has suppose to file the return of income on or before 31.07.2011 in respect of the assessment year 2011-2012. However, the said return was filed only in the year of 2015 after a period of four years. While filing the return of income, the refund claim has also been made by the petitioner, however, no refund claim was processed. Alongside, the petitioner also made a letter on 04.07.2022 to the second respondent, seeking to refund the amount of TDS and the same was not considered by the second respondent. At this juncture, the learned Senior Standing Counsel for the respondents would submit that no acknowledgement has been filed to show

whether the refund claim application is filed. Further, he would submit that in this case, the request made for refund is without making any proper application before the Authority concerned. It is also submitted that in few cases, if there is any delay, normally the request would be made and the same will be considered. Without doing so, the petitioner has wrongly invoked Section 119(2)(b) of the Act. This Court is of the considered view that merely by condoning the delay in filing the return of income is nothing to do with the refund claim request made by the petitioner. Therefore, I do not find any merit in approaching this Court by way of filing the present Writ Petition.

6. In the result, the Writ Petition is dismissed. However, liberty is granted to the petitioner to file an appropriate request to the respondent for the refund claim, if any TDS amount is deducted by the third respondent and deposited with the Authority concerned. No costs. Consequently, connected Miscellaneous Petition is closed.

**25.09.2024**

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

1. The Principal Commissioner of Income Tax,
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Hosur-635 126

**Krishnan Ramasamy,J.,**

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**W.P.No.23486 of 2023**

**25.09.2024**
**(8/8)**