IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

CORAM :

THE HONOURABLE **MR. JUSTICE KRISHNAN RAMASAMY**

W.P.No.26034 of 2022
and
W.M.P.Nos.25120 and 25121

Pavai Varam Educational Trust,
No.64-C Rotary Nagar,
Rasipuram – 637 408. ... Petitioner

Vs.

1. Central Public Information officer & Income Tax Officer,
Centralized processing Center,
Income Tax Department,
48/1 & 48/2, Prestige Alpha, Beratena Agrahara
Electronic City (Post), Hosur Road,
Bengaluru – 560 500.

2. The Director General of Income Tax (Systems)
ARA Center, Ground Floor,
E-2, Jhandewalan Extension,
New Delhi – 110 005.

3. The Deputy Commissioner of Income Tax,
Central Circle,
No.2, Gandhi Road, IInd Floor,
Hasthampatti, Salem – 636 007.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the first respondent herein in Assessment Proceedings in PAN AAATP6024D for AY 2020-21 and quash the Impugned order No.CPC/2021/A7/164873571 dated 24.12.2021 passed by the first respondent for the Assessment Year 2020-21, and further, direct the respondents to remove the consequential demand for AY 2020-21 uploaded in the portal.

For petitioner	:	Ms.G.Vardhini Karthik
For respondents	:	Dr.B.Ramaswamy Senior Standing Counsel

<u>O R D E R</u>

This writ petition is filed challenging the order dated 24.12.2021 passed by the first respondent for the Assessment Year 2020-21, and further, direct the respondents to remove the consequential demand for AY 2020-21 uploaded in the portal.

2. The petitioner in the present case has submitted that the last date for filing of IT returns under Section 139 of the Income Tax Act was on 31.10.2020 and the due date for filing of audit report was 30.09.2020. In that

event the petitioner failed to file the returns within the due date. And also the due date for furnishing of audit report under The Taxation and Other Laws (Releaxation and Amendment of Certain Provisions) (for brevity 'TOLA Act') 2020 was extended till 31.03.2021. The said returns and the audit report were not filed due to CoViD pandemic and under these circumstances, they disallowed the expenses and issued consequential demand against the petitioner. He further submitted that this is contrary to the notification dated 30.12.2020 issued by the respondent for extending the time line and hence, the impugned assessment order is liable to be set aside and the respondents should be directed to remove the consequential demand uploaded in the portal for the AY 2020-21.

3. On behalf of the respondent Mr. Dr.B.Ramaswamy, Senior Standing Counsel has strongly made his opposition for the submissions raised by the learned counsel for the petitioner. Since the petitioner committed several mistakes though stating Covid pandemic as a reason, he has not filed the IT returns and the audit report within the due date and therefore, they disallowed the expenses and issued consequential demand against the petitioner. He has referred to paragraph 7 of the counter affidavit

which reads as follows:

> *"7. ...Due to COVID -19 pandemic the date for AY 2020-21 extended till 15.02.2021. In the return of income filed, the petitioner has claimed Exemption u/s. 1 of I.T.Act. The disallowance of expenses was made since the petitioner did not comply with the provisions of Section 12A(1)(b) of I.T.Act, in so far as, it failed to file audit report in Form 10B before one month of the due date for filing the return of income. In the present case exemption under Section 11 has been claimed in Sl.No.4i to 4viii of Schedule Part B-TI. In order to allow Exemption, u/s.11 various conditions specified in section 12A of I.T. Act has to be satisfied. As per Section -12A(1)(b) of Income tax Act read with 1st proviso to Rule 12(2) of the Income Tax Rules, Audit report in Form 10B has to be e filed one month before the due date prescribed u/s 139(1) of I.T.Act i.e. 15.02.2021 for AY 2020-21. Thus, assessee was required to e-file the audit report in Form 10B by 15.01.2021 in order to be eligible for cliaming exemption u/s.11 of I.T.Act for A.Y.2020-21. However, assessee has e-filed audit report in form 10B only on 14.02.2021. It is important to note thatin view of the challenges faced by taxpayers in meeting the statutory and regulatory compliances due to the outbreak of Covid-19,the government has extended various time limits. In vies of the same the Government has issued a press release dated 30.12.2020 for extension of time limits and in terms of the press release, the date for furnishing of various audit reports under the Act for AY 2020-21 has been extended to 15th January, 2021. Since*

> *the Audit Report has not been e-filed in Form 10B one month before the due date of filing the return of income under Section 139(1), the exemption claimed by the petitioner has not been allowed."*

By citing the above paragraph, he strongly opposed to allow this writ petition.

4. Heard both sides and perused the records.

5. It is clear that the reports were filed on 14.02.2021 and the due date for filing the reports under Section 139 of the Income Tax Act is 31.10.2020 and audit report was on 30.09.2020 and the above due dates were extended due to Covid according to TOLA Act till 31.03.2021. In the present case, the reports as well as the audit reports were filed on 14.02.2021. Therefore, the returns were filed on time in accordance with the provisions of Section 139 of the Income Tax. By citing the reasons of delay without considering the notification issued by the Central Board of Direct Taxes (CBDT) for extending time limitation for filing of report and returns before 31.03.2022, the impugned order came to be passed by disallowing the expenses and consequential demand was also made against the petitioner.

6. Hence, the impugned order is set aside and a direction is given to the respondent to remove the consequential demand against the petitioner and open the E portal for uploading the reports, if any.

7. With the above direction,this writ petition is allowed. Connected W.M.Ps are closed. No costs.

30.09.2024

vca

Citation	:	Yes/No
Index	:	Yes/No
Internet	:	Yes/No

To:

1. Central Public Information officer & Income Tax Officer,
Centralized processing Center,
Income Tax Department,
48/1 & 48/2, Prestige Alpha, Beratena Agrahara
Electronic City (Post), Hosur Road,

Bengaluru – 560 500.

2. The Director General of Income Tax (Systems)
ARA Center, Ground Floor,
E-2, Jhandewalan Extension,
New Delhi – 110 005.

3. The Deputy Commissioner of Income Tax,
Central Circle,
No.2, Gandhi Road, IInd Floor,
Hasthampatti, Salem – 636 007.

KRISHNAN RAMASAMY.J,

vca

W.P.No.26034 of 2022
and
W.M.P.Nos.25120 and 25121

30.09.2024