IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.35259 of 2023

M/s.RKR Gold Private Limited,
Represented by Managing Director,
169, T.V.Samy Road,
R.S.Puram West,
Coimbatore South,
Coimbatore 641002
PAN: AADCR4414M

... Petitioner

Vs.

1.The Director (OT&WT),
Ministry of Finance,
Central Board of Direct Taxes,
Sansad Marg, New Delhi 110 001.

2.The Principal Chief Commissioner of Income Tax,
Income Tax Department,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

3.The Principal Commissioner of Income Tax,
Coimbatore,
Income Tax Department,
No.67A, Race Course Road,
Coimbatore 641 018.

4.The Deputy Commissioner of Income Tax,
Corporate Circle-1, Coimbatore,
Income Tax Department,
No.67A, Race Course Road,
Coimbatore 641 018.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the writ petitioner on the file of the 1st respondent to quash the impugned order dated 16.10.2023 passed under Section 119(2)(b) of the Income Tax Act, 1961, in F.No.312/140/2022-OT pertaining to the Assessment Year: 2021-22 and consequentially condone the delay in filing the return of income.

For Petitioner : Mr.A.S.Sriraman

For Respondent : Dr.B.Ramaswamy,
Senior Standing counsel

ORDER

This writ petition has been filed challenging the impugned order dated 16.10.2023 passed by the 1st respondent.

2. The learned counsel for the petitioner would submit that in the present case, the due date for filing the ITR of the petitioner, for the AY 2021-2022, was on 15.03.2022. However, since all the three Directors of the petitioner-Company were admitted in Hospital due to COVID and got discharged only during the month of February 2022, they were unable to produce their records and documents to their Consultant at the earliest point of time. Therefore, they had filed their ITR only on 26.03.2022 i.e., with a delay of 11 days. The discharge summary of all the three Directors were also filed by the petitioner to substantiate their case.

3. Further, he would submit that an application, to condone the delay of 11 days in filing their ITR, was filed by the petitioner before the respondent. However, without considering the reasons assigned by the petitioner, the respondent had rejected the said application vide impugned order dated 16.10.2023. Hence, he requests this Court to set aside the impugned order passed by the respondent.

4. The learned Senior Standing counsel appearing for the

respondent had strongly opposed for condoning the delay of 11 days in filing the ITR on the ground that the petitioner is a habitual offender. Further, he would submit that since the Directors of the petitioner-Company had discharged from the Hospital in the month of February, 2022 itself, i.e., one month prior to the due date, they could have filed their returns within the prescribed time limit. Hence, he would contend that the said reason is not acceptable for condoning the delay and requests this Court to dismiss the present petition.

5. Heard the learned counsel for the petitioner and the learned Senior Standing counsel for the respondents and also perused the materials available on record.

6. In the case on hand, there is no dispute with regard to the aspect that the 3 directors were affected due to COVID and got admitted in the Hospital during the month of January, 2022 and thereafter, they had discharged from the Hospital only in the month of February, 2022. In this regard, the discharge summary of those Directors were also produced

before this Court.

7. Normally, a person, who was affected with COVID, will not be physically cured and they will face post-COVID sufferings for at least a period of one month. In such case, though the Directors of the petitioner company had discharged in the month of February 2022, they were unable to file their returns within the prescribed time limit due to the post-COVID sufferings. In such case, the reasons assigned by the petitioner, for non-filing of ITR within time, appear to be genuine and hence, this Court does not find any deliberate intention on the part of the petitioner.

8. Further, if the petitioner's condone delay application was rejected on merits continuously for atleast 3 years, thereafter, the respondent can reject the petitioner's condone delay application for the 4th year on the aspect of habitual offender. On the other hand, if the concerned Officer, being satisfied with the reasons assigned by the Assessee, had condoned the delay, on merits, during any previous years,

the aspect of habitual offender will not come into picture. In such case, the petitioner herein will not be considered as a habitual offender.

9. Therefore, this Court, being satisfied with the reasons assigned by the petitioner, feels that it would be appropriate to condone the delay of 11 days, in filing the ITR, on terms. Accordingly, this Court passes the following orders:

(i) The impugned order dated 16.10.2023 is set aside and the delay of 11 days in filing the ITR by the petitioner is condoned, subject to the payment of a sum of Rs.25,000/- by the petitioner to the The Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of 4 weeks from the date of receipt of copy of this order.

(ii) Thereafter, the petitioner is directed to file their ITR for the Assessment year 2021-22.

(iii) Upon production of proof with regard to the payment of a sum of Rs.25,000/- as stated above, the respondent is directed to process the ITR filed by the petitioner, as expeditiously as possible.

10. In the result, this writ petition is allowed.

25.09.2024

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

To

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