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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 5187/2024

SUDESH ..... Petitioner

Through: Mr. Amit Kaushik, Adv.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX, DELHI-15 AND ANR. ..... Respondents

Through: Mr. Sunil Agarwal, SSC along with Mr. Shivansh B. Panda, JSC and Mr. Utkarsh Tiwari, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **09.04.2024**

CM APPL 21248/2024 (Exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 5187/2024

1. This writ petition has been preferred seeking the following reliefs:-

> "a) quash the impugned order dated 18.12.2023, passed by respondent no. 1 and condone the delay in e-verification of the return filed by the petitioner on 31.12.2022; and/or
>
> b) direct the respondents to refund an amount of Rs. 96,000/- to the petitioner; and/or
>
> c) such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. The petitioner is essentially aggrieved by the rejection of its

application referable to Section 119(2)(b) of the Income Tax Act, 1961 [‘**Act**’] with it being contended that although the revised return was filed within the timeframe as prescribed, it was only the e-verification process which got delayed.

3. We note that while dealing with the aforesaid application, the Principal Commissioner has held as follows:-

> “4. The facts of the case, submissions of applicant have been perused and it is seen that the applicant has filed the original Return of Income for the AY 2022-23 without taking into account some financial transactions relating to sale/purchase of immovable property due to an oversight, as admitted by him. He has also failed to file the revised Return of Income within the stipulated time limits as he forgot to e-verify the same. Filing inaccurate particulars/Ignorance of Law cannot be held as a genuine hardship in accordance with CBDT circular 9/2015 dated 09.06.2015. Thus, the application of the assessee is not maintainable under clause (b) of sub section (2) of Section 119 of the Income Tax Act, 1961.”

4. As is evident from the aforesaid, the Principal Commissioner has failed to record or assign any reasons in support of its conclusion that the application was not maintainable.

5. We also take note of the following provisions which stand encapsulated in a Circular dated 09 June 2015 and where while advising the authorities concerned of the manner in which the power under Section 119(2)(b) was to be exercised, the Central Board of Direct Taxes had held as follows:-

> **“5.** The powers of acceptance/rejection of the application within the monetary limits delegated to the Pr.CCsIT/CCsIT/Pr.CsIT/CsIT in case of such claims will be subject to Following conditions:
>
> *i.* At the time of considering the case under Section 119(2)(*b*), it shall be ensured that the income/loss declared and/or refund claimed is correct and genuine and also that the case is of genuine hardship on merits.
>
> *ii.* The Pr.CCIT/CCIT/Pr.CIT/CIT dealing with the case shall be empowered to direct the jurisdictional assessing officer to make necessary inquiries or scrutinize the case in accordance

with the provisions of the Act to ascertain the correctness of the claim.

6. A belated application for supplementary claim of refund (claim of additional amount of refund after completion of assessment for the same year) can be admitted for condonation provided other conditions as referred above are fulfilled. The powers of acceptance/rejection within the monetary limits delegated to the Pr.CCsIT/CCsIT/Pr.CsJT/CsIT in case of returns claiming refund and supplementary claim of refund would be subject to the following further conditions:

i. The income of the assessee is not assessable in the hands of any other person under any of the provisions of the Act.

ii. No interest will be admissible on belated claim of refunds.

iii. The refund has arisen as a result of excess tax deducted/collected at source and/or excess advance tax payment and/or excess payment of self-assessment tax as per the provisions of the Act."

6. In view of the aforesaid, we are of the considered opinion that there would be no justification to retain the present writ petition on our Board.

7. We, accordingly, allow the same and set aside the impugned order dated 18 December 2023.The matter shall in consequence stand remitted to the board of the Principal Commissioner of Income Tax, Delhi-15, who shall proceed to decide the application afresh and bearing in mind the provisions made in Circular No. 9/2015 referred to above.

8. All rights and contentions of respective parties are kept open.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

APRIL 09, 2024/RW