IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5101 of 2025
& W.M.P.No.5667 of 2025

Lakshmanan Murugaraj ... Petitioner

Vs.

1.Commissioner of Income Tax (Appeals)
National Faceless Assessment Centre,
Income Tax Department,
Ministry of Finance,
Room No.401, 2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi - 110 003.

2.Assessment Officer,
Assessment Unit,
National Faceless Assessment Centre,
Income Tax Department,
Ministry of Finance,
Room No.401, 2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi - 110 003.

... 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 first respondent in DIN and Order No.ITBA/NFAC/S/250/2024-25/1070458127(1) dated 19.11.2024 passed under Section 250 of the Income Tax Act, 1961, and quash the same and consequently direct the second respondent to re-do the assessment for the Assessment Year 2015 to 2016 afresh after providing an opportunity of personal hearing as per the provisions of the Income Tax Act, 1961.

For Petitioner : Mr.S.Mukunth,
Senior Counsel
for Sarvabhauman Associates

For Respondents : Dr.B.Ramaswamy,
Senior Standing Counsel

ORDER

This writ petition has been filed challenging the impugned rejection order dated 19.11.2024 passed by the 1st respondent.

2. The learned counsel for the petitioner would submit that in this case, the *ex parte* order came to be passed by the 2nd respondent on 24.01.2024. Since all the notices were issued to an outdated e-mail ID of petitioner's former auditor, he was unaware of the said notices and he came to receive the order only in the month of August 2024. Thereafter, he filed an appeal on 27.08.2024, which was rejected by the first

respondent on 19.11.2024, since the delay is beyond the condonable period i.e., after 6 months from the date of ex-parte order. Hence, he prayed this Court to set aside the rejection order dated 19.11.2024 and also ready to pay any costs for condoning the delay in filing an appeal.

4. On the other hand, the learned Senior Standing Counsel appearing for the respondents strongly opposed the submission of learned counsel for the petitioner and to substantiate his claim, he has also filed a counter affidavit. For better appreciation, the relevant portion of the said counter is extracted hereunder:

"The petitioner's claim that the notices were sent to an outdated e-mail of his former auditor who is deceased and he has not received any communication on his valid email address or mobile no as provided in his return of income is totally incorrect.

It is seen from the departmental data base that the assessee has provided the mail ID and Contact no in his return of Income filed as under:-

Sl. No.	***Assessment Year***	***E mail ID***	***Contact No. Provided***	***Notices sent by FAO***
1	*2021-22*	*Pavithra561995@gmail.com*	*9994432429*	*Intimation letter, notice u/s-148/143(2)/142(1), reminders and show cause notices*

It is submitted that all the statutory notices and other communications as mentioned above has been sent, and delivered at the mail ID Pavithra561995@gmail.com provided by the assessee himself in his Return of income. Service in the mail Id is a valid service.

During the Assessment proceedings, the Assessing Officer, National Faceless Assessment Centre has provided sufficient opportunity to the petitioner by issuing statutory notices u/s.148/u.s.143(2) of the I.T.Act and 142(1) of the I.T.Act reminders and Show Cause Notices. All the notices were served upon the assessee through the registered e-mail. It is pertinent to be mention here that the assessee himself has given the e-mail pavithra561995@gmail.com in the return of income file in ITR-4 filed for the Assessment Year 2015-16. It is also pertinent to mention here that the assessee has filed his ITR in response to the notice issued u/s.148 of the I.T.Act dated issued to the e-mail pavithra561995@gmail.com. Therefore, the contention that the petitioner did not receive any communication on his valid email address or mobile number, as provided in his Income Tax Returns (ITR) is false.

A Centralised Communication was also issued on 18.09.2023 through Speed Post No.JA277198733IN. All the notices/reminders/Show Cause Notices were duly delivered through the registered e-mail given by the petitioner. However, the petitioner has not responded to any of the notices/reminders/Show Cause Notices and failed to file any details/documentary evidences to substantiate the source for the cash deposits made in his bank account.

Furthermore, at the time of issuance of notices/letters, system will send a message to the contact no provided in the E-filing portal.

Hence, it is evident that the assessee was provided enough opportunities by way of service of statutory notices/reminder letters/Show Cause Notices via email and message."

5. Learned Senior Standing Counsel appearing for the respondents would further submit that the delay, in filing the appeal, has occurred only due to the fault on the part of the petitioner and requests this Court to dismiss this writ petition.

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

7. In the case on hand, the *ex parte* order came to be passed on 24.01.2024. Aggrieved over the same, an appeal was preferred by the petitioner on 27.08.2024, i.e., with a delay of 6 months. Since the delay was beyond the condonnable period, the said appeal was rejected by the first respondent vide impugned order dated 19.11.2024. According to the

petitioner, since the assessment order was issued to an outdated e-mail ID of his former auditor, they remained unaware of the said order and hence, they were unable to file the appeal within time.

8. No doubt, sending notice by uploading in portal is a sufficient service, but, the Officer who is sending the repeated reminders, inspite of the fact that no response from the petitioner to the show cause notices etc., the Officer should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the GST Act, which are also the valid mode of service under the Act, otherwise it will not be an effective service, rather, it would only fulfilling the empty formalities. Merely passing an *ex parte* order by fulfilling the empty formalities will not serve any useful purpose and the same will only pave way for multiplicity of litigations, not only wasting the time of the Officer concerned, but also the precious time of the Appellate Authority/Tribunal and this Court as well.

9. Thus, when there is no response from the tax payer to the notice sent through a particular mode, the Officer who is issuing notices should

strictly explore the possibilities of sending notices through some other mode as prescribed in Section 169(1) of the Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner.

10. In view of the above, this Court is inclined to set aside the rejection order dated 19.11.2024, by condoning the delay in filing the appeal against the assessment order, since the reason assigned by the petitioner appears to be genuine.

11. Accordingly, this Court passes the following order:

i) The impugned order dated 19.11.2024 is set aside and the delay of 6 months in filing the appeal against the assessment order is hereby condoned, subject to the payment of Rs.5,000/- to the credit of the Principal Government of Naturopathy Medical College and Hospital [Account No.7883022723, IFSC Code:IDIB000M157], within a period of three weeks from the date of receipt of a copy of this order.

ii) Upon such payment made by the petitioner, the 1st respondent/Appellate Authority is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing an sufficient opportunity to the petitioner, as expeditiously as possible.

12. With the above directions, this writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is also closed.

18.06.2025

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

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KRISHNAN RAMASAMY.J.,

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