IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2025

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THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.Nos.9922 & 9756 of 2024
and W.M.P.Nos,10939, 10791 & 10792 of 2024

M/s.Vasan Health Care Private Limited,
Rep. by Mr.Vimal Chandrasekaran, Head HR,
Having registered office at No.120 A, Bazaar Road,
Saidapet, Chennai – 600 015. .. Petitioner in both W.Ps

Vs.

1.The Central Board of Direct Taxes,
Ministry of Finance, Government of India,
Department of Revenue,
Central Secretariat,
North Block, New Delhi-110 001.

2.The Principal Chief Commissioner of Income Tax,
Tamilndau & Puducherry,
Aayakar Kaaryaalay, 121, M.G.Road,
Nungambakkam, Chennai – 600 034. .. Respondent in both W.Ps

Prayer in W.P.No.9922 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, calling for the records in F.No.312/94/2022-OT dated 22.12.2023 on the file of the 1st respondent relating to the A.Y 2019-20 and quash the same and consequently direct the 1st respondent to condone the delay in filing the Return of Income for the Assessment Year 2019-20, Refund Rs.2,63,00,110/-.

Prayer in W.P.No.9756 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, calling for the records in F.No.312/94/2022-OT dated 22.12.2023 on the file of the 1st respondent relating to the A.Y 2019-20 and quash the same and consequently direct the 1st respondent to condone the delay in filing the Return of Income for the Assessment Year 2020-21, Refund Rs.3,15,24,560/- and carry forward of loss of Rs.19,76,72,761/-.

In both W.Ps

For Petitioner : Mr.G.Gautham Ram Vittal

For Respondents : Mr.A.N.R.Jayaprathap
Junior Standing Counsel

COMMON ORDER

These writ petitions have been filed by the petitioner challenging the impugned orders passed by the 1st respondent rejecting to condone the delay in filing the Returns of Income for the Assessment Years 2019-2020 and 2020-2021.

2.Learned counsel for the petitioner would submit that in the year 2017, the petitioner Company was under Corporate Insolvency Resolution Process and the Interim Resolution Professional was appointed to the petitioner's Company. Subsequently, the creditors of the Company filed petition before this Court against the winding up process and obtained stay vide order dated 04.05.2017 and the stay was vacated vide order dated 05.09.2019 by this Court. Thereafter, pursuant to the application made in MA/1050/2019 in CA/1/IB/2017, filed by the Interim Resolution Professional before the National Company Law Tribunal, the Insolvency Resolution Process was revived on 03.10.2019 and Mr.S.Rajendran was appointed as Resolution Professional of the petitioner Company on 23.04.2021.

2.2.During the CIRP period, the Resolution Professional filed an application dated 30.03.2022, before the 1st respondent for condonation of delay in filing the Returns of Income for the Assessment Year 2019-20. The 1st respondent requested the details regarding the condonation of delay for A.Y.2019-20 & 2020-21 via email dated 17.05.2022. Subsequently, the company's resolution plan was approved on 03.02.2023 by the National Company Law Tribunal and the present management took over the company on 01.04.2023. However, the Corporate Insolvency Resolution Process was initiated by the old management.

2.3.Though all the details regarding the condonation of delay has been furnished by the petitioner company, the 1st respondent rejected the application for condonation of delay stating that they did not find any merits on the case of the petitioner and the petitioner has not been able to establish any case of genuine hardship as stipulated under Section 119(2)(b) of the Act. Hence, the present writ petition.

3.Learned Junior Standing Counsel appearing for the respondents would submit that when the company is under the Insolvency Process, it is the duty of the Resolution Professional to file the returns. Since they failed to do so, the application for condonation of delay has been rejected.

4.Heard the learned counsel for the petitioner as well as the learned Junior Standing Counsel appearing for the respondents and perused the materials available on record.

5.Upon hearing the submissions made by the learned counsel appearing for either parties, it is evident that the Company was put into Corporate Insolvency Resolution Process and initially, Interim Resolution Professional was appointed and thereafter, Resolution Professional has been appointed after the revival of the Insolvency Proceedings, which was suspended due to the stay obtained by the creditors. Thereafter, the Resolution Professional filed application for approval of resolution plan and the same was granted vide order dated 03.02.2023 and the present management took over the Company on 01.04.2023. Thereafter, while scrutinizing the records, the petitioner found that the returns were not filed during the insolvency process. When the company was under the insolvency process, the Interim Resolution Professional/Resolution Professional was incharge of the Company and they have failed to file the return of income, for which the petitioner cannot be found fault.

Therefore, the reason assigned by the petitioner appears to be genuine and there was a genuine hardship faced by the petitioner in filing the return of income due to the reason stated above. The 1st respondent ought to have considered this aspect while passing order in the application filed by the petitioner for condonation of delay. However, the 1st respondent failed to do so. In such circumstances, this Court is inclined to condone the delay. Accordingly, this Court passess the following orders:-

(i) The Order impugned herein is set aside and the delay in filing the return of income for the Assessment Years 2019-2020 and 2020-2021 is condoned.

(ii)It is needless to state that the aspect of refund and other benefits which the petitioner is entitled for has to be considered as if the return has been filed in time.

6.With the above observations, these writ petitions are disposed of. No cost. Consequently, the connected miscellaneous petitions are also closed.

26.02.2025

rst
Index : Yes/No
Neutral Citation: Yes/No
Speaking Order/Non-Speaking Order

To:

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Ministry of Finance, Government of India,
Department of Revenue,
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North Block, New Delhi-110 001.

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KRISHNAN RAMASAMY, J.

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