IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.22191 of 2025

TN Apex Skill Devlopment Centre for Healthcare,
Represented by its Authorised Signatory &
Managing Director,
Sanju Thomas Abraham. ... Petitioner

Vs.

The Commissioner of Income Tax Exemptions,
Chennai,
Aayakar Bhawan, Annexe Building,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 30.04.2025 bearing DIN & Order No.ITBA/COM/F/17/2025-26/1075885381(1) in PAN:AAHCT9174C passed by the Respondent and quash the same and consequently direct the respondent to accept the return of Income for the Assessment Year 2024-25 and Audit Report in Form 10B.

For Petitioner : Mr.K.Suresh

For Respondent : Mr.V.J.Arul Raj
Senior Standing Counsel and
Ms.Anu Ganesan
Junior Standing Counsel

ORDER

The Petitioner is before this Court against the impugned order passed under Section 119(2)(b) of the Income Tax Act, 1961, by the Respondent namely the Commissioner of Income Tax Exemptions. By the impugned order, the application filed for condonation of delay in filing the return under Section 139 of the Income Tax Act, 1961 has been rejected with the following observations:-

> *4.1. In the instant case, assessee has not filed its ITR for the year under consideration. On perusal of Audited Financials, it is seen that assessee has reported total income of Rs.7.90 crores and TDS receivable of RS.15.62 lakhs. To avail tax exemption, assessee should have filed Form 10B/10BB one month before the due date for filing the return of income under Section 139(1). However, assessee has failed to file the audit report and Return of Income for the year under consideration. Further, assessee has cited reasons for not filing the return of income within stipulated time as mentioned in Para 3. However, no supporting documentary evidence produced along with condonation petition.*
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> *4.2. Further, this office has given an opportunity of being heard through a hearing notice dated 15.04.2025. Mr.Rajendran P, Finance Manager appeared before CIT(E), Chennai on 25.04.2025. Assessee's Representative explained that the delay was mainly due to the fact that there was two IAS Officers in the Board members, and that they could not be available for the Board meeting. Because of that Return of*

> *Income and Form No.10B could not be filed in time. The reasons quoted by the Assessee are generic in nature and same are not acceptable. It is also pertinent to mention that the assessee has not filed Form 10B for the A.Y.2024-25.*
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> *4.3. The assessee should have mandatorily filed audit report along with return of income under Section 139(4A) to claim exemption under Section 11 and 12. Trust is expected to be more aware of the statutory compliances when a large amount of exemption had to be claimed. As a public charitable trust, the assessee should have obeyed the rules and regulations of the law enacted in Income Tax Act and should have filed the return of income/Form 10B periodically.* ***The reasonable cause relied on by the assessee does not have any merit and it has miserably failed to convince that it had any genuine hardship in filing income tax return for the A.Y.2024-25.***
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> *5. Since, the assessee has not established any reasonable cause for the delay in filing Return of Income for the AY 2024 – 2025, assessee's petition seeking condonation of delay in filing the Return of income is hereby rejected.*

2. The case of the Petitioner is that the Petitioner is a Section 8 Company (formerly Section 25 of the Companies Act, 1956) under the Companies Act, 1956. It is submitted that for the Assessment Year 2024-2025, the Petitioner could not file the return of income under Section 139(1) in time, as the board meeting was only held on 24.12.2024, on which date, one of the higher officer was authorized to sign the returns and financial statement. However, since the officers concerned was on leave, same was not signed.

3. Under these circumstances, the Petitioner has filed the application

under Section 119(2)(b) of the Income Tax Act, 1961 for condonation of delay in filing the return. It is submitted that unless the delay is condoned, the Petitioner would dis-entitled to exemption under Section 12A of the Income Tax Act, 1961.

4. The learned Senior Standing Counsel for the Respondent on the other hand would submit that the Petitioner has not filed their return of income even as on date.

5. That apart, it submitted that the Petitioner has an option to file a return under Section 139(8A) of the Income Tax Act, 1961 (updated return). It is submitted that if the Petitioner file such a return, the necessity for approaching the Respondent under Section 119(2)(b) would not arise. It is submitted that even as on date, the return has not been filed and therefore the Writ Petition is liable to be dismissed.

6. It is submitted that Court had also heard this matter and had orally directed the Petitioner to file the return. However, till date, no return has been

filed. It is further submitted that the Writ Petition is dismissed as the Petitioner is negligent in not filing the return.

7. On the other hand, the learned counsel for the Petitioner would submit that if the Petitioner files the return (updated return) under Section 139(8A) of the Income Tax Act, 1961, the Petitioner will loose the benefit of adjustment of TDS of Rs.15.62 lakhs which has been recorded in para 4.1. of the impugned order which is extracted above.

8. Having considered the submissions made by the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondent, I am of the view the benefit of exemption if it is otherwise available to an assessee should not be denied, merely because there is a procedural delay and violation is filing the return in time.

9. The philosophy of the Tax under the Income Tax Act, 1961, is not to harass an assessee but to assess and demand a just tax under the provisions of the Income Tax Act, 1961. That apart, Court have also repeatedly come to

rescue of assessees wherever the substantial benefit of exemption are otherwise available, such benefit should not be denied for technical breach.

10. In this connection, a reference is made to the decision of the Hon'ble Supreme Court in **State of Uttar Pradesh** Vs **Aurya Chambers of Commerce,** (1986) Vol 25 ELT 687, wherein the Court has held that procedures are hand maids of justice are not mistress of law. In fact the Hon'ble Supreme Court in **Unichem Laboratories Ltd.** Vs. **Commissioner of Central Excise**", 2002 (145) E.L.T. 502 (S.C.) wherein, it held as under:-

> "13……*There can be no doubt that the authorities functioning under the Act must, as are in duty bound, protect the interest of the Revenue by levying and collecting the duty in accordance with law - no less and also no more. It is no part of their duty to deprive an assessee of the benefit available to him in law with a view to augment the quantum of duty for the benefit of the Revenue. They must act reasonably and fairly."*

11. In fact, in the context of Income Tax the Division Bench of this Court has also taken a liberal view in ***M/s.Coromondel Cabeles P. Ltd., and others*** Vs. ***The Assistant Commissioner of Income Tax and others*** in **T.C.A.Nos.294 to 299 of 2018 etc., batch.**

12. Therefore, I am of the view, the benefit of exemption which is legitimately available to the Petitioner should not be denied merely because there is a delay in filing the return. Therefore, the impugned order which rejects the application for condonation of delay is liable to be set aside.

13. Consequently, the delay stands condoned, in view of the above discussion. The Petitioner shall file a return within a period of 15 days from the date of the receipt of a copy of this order. The Respondent shall facilitate the Petitioner to file a return in case the Petitioner encounter any technical problem in the web portal.

14. In any case, the Petitioner shall also file a copy of such a return manually within such time.

15. In case the Petitioner complies with the above stipulation in time, the Respondent shall proceed to pass appropriate orders for extending the benefit of exemption if the Petitioner is otherwise entitled to exemption.

16. In case the Petitioner fails to comply with the above stipulation in time, the Respondent shall finalize the assessment based on the available materials.

17. This Writ Petition stands disposed of with the above observations. No costs.

22.09.2025

Neutral Citation : Yes / No
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To

The Commissioner of Income Tax Exemptions,
Chennai,
Aayakar Bhawan, Annexe Building,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai.

C.SARAVANAN, J.

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