# IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2025

CORAM :

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.P.No.38547 of 2025
and
W.M.P.No.43086 of 2025

Srikumar Lakshmi ... Petitioner

Vs.

1.The Income Tax Officer,
International Taxation Ward – 1(2)
16 BSNL Building, Tower 1,
4th Floor, Greams Road,
Chennai – 600 006.

2.The Commissioner of Income Tax,
(International Taxation),
Room No.401, BSNL Building,
4th Floor, BSNL Tower,
16, Greams Road,
Chennai – 600 006. ... Respondents

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 in DIN & Order No: ITBA/COM/F/17/2024-25/1074274621(1) dated 10.03.2025 order under Section 119(2)(b) of the IT Act on the file of the 2nd Respondent for the A.Y.2022-23 and quash the same and direct the 2nd respondent to condone the delay in filing the Return of Income for the A.Y.2022-2023.

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| For Petitioner | : | Mr.I.Dinesh |
| For Respondents | : | Mr.B.Ramanakumar<br>Senior Standing Counsel |

**ORDER**

Mr.B.Ramanakumar, learned Senior Standing Counsel takes notice for the Respondents.

2. This Writ Petition is being disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents and after recording the submission that no counter is required to be filed, as there are no disputed question of facts involved in this case.

3. In this writ petition, the petitioner has challenged the impugned order dated 10.03.2025 passed by the second respondent Commissioner of Income Tax (International Taxation), whereby the petitioner's request for condonation of delay in filing the return of income under Section 139 has been rejected.

4. The dispute pertains to the Assessment Year 2022-2023 (previous year 2021-2022) last date for completing the assessment being 31.03.2022. The petitioner claims to be a NRI who appears to have sold a property on 29.12.2021. However, while effecting the same, the petitioner has not intimated the same to the Income Tax Authorities. The same was also not intimated to the Department, as no return of income was filed under Section 139(1) of the Income Tax Act. The last date for filing the return expired on 31.07.2022. The last date for filing the return under Section 139(4) would have also expired on 31.12.2022.

5. It is the case of the petitioner that there was a difficulty in linking the Aadhaar with PAN. This was resolved only in October 2022 and thereafter the petitioner has approached the Respondents for condoning the delay in filing the return on 28.03.2023 which has been rejected on the ground that no valid reason has been given for approaching the second respondent for condoning the delay.

6. The learned counsel for the petitioner on the other hand would submit that although the petitioner attempted to file a return of income on 01.01.2023, the portal was disabled. It is therefore submitted that the impugned order rejecting the request of the petitioner for condoning the delay in filing the return of income be interfered with.

7. The learned Senior Standing Counsel for the respondent on the other hand would submit that the petitioner is a NRI who has effected a sale of immovable property on 29.12.2021 and therefore ought to have intimated the sale precedes in the return were filing the return on time. It is submitted that neither a return was filed within the limitation under Section 139(1) nor within the extended period under Section 139(4) and therefore it cannot be assumed that there was no genuine hardship faced by the petitioner. Therefore, this Writ Petition is liable to be dismissed.

8. On behalf of the Respondent, it is submitted that no genuine hardship was faced by the petitioner in filing the return either on 31.07.2022 within the limitation prescribed under Section 139(1) or within the extended period on 31.12.2022.

9. The learned Senior Standing Counsel for the Respondents submits that the petitioner has approached the respondent for condoning the delay only after coming to know that the petitioner may be entitled for refund of Rs.17.9 lakhs and therefore the petitioner has approached the respondent belatedly and not with a view to pay tax.

10. Having considered the submissions made by the learned counsel for the petitioner and the learned senior standing counsel for the respondents, I am inclined to quash the impugned order taking note of the fact that Income Tax Department under the provisions of the Income Tax Act, 1961 is expected to demand just tax as a due from an assessee. It is not for the Department to deny any benefit that an assessee may be entitled to, if the assessee is otherwise entitled but for the procedural infractions of violation in filing the returns.

11. In this connection, decision of the Supreme Court in **Unichem Laboratories** Vs. **Commissioner of Central Excise,** (2002) 7 SCC 145 is invited. The Hon'ble Supreme Court held that it is no part of the duty of the

officer of the Department to deny the benefit which is legitimately due to an assessee.

12. That apart, the Hon'ble Supreme Court has laid down the law long before the procedures are nothing but hand maids of justice are not mistress of law (**State of Uttar Pradesh** Vs **Aurya Chambers of Commerce,** (1986) Vol 25 ELT 687 & (1986) 3 SCC 50).

13. Therefore, the delay in filing the return is required to be condoned, if the petitioner is entitled to any benefit that the petitioner may be otherwise entitled but for the delay in filing the return.

14. Since the petitioner is a NRI and had sold the property on 29.12.2021 and did not bring the same to the Department for filing the return in time, the petitioner shall pay to the Adayar Cancer Institute a token amount of Rs.10,000/- as cost within a period of 45 days from today. Registry shall issue certified copy of the order to the petitioner only subject to the petitioner complying with the aforesaid condition.

15. In case, the petitioner fails to comply with the above stipulations,

this Writ Petition shall be deemed to have been dismissed *in limine* today by this order. Subject to the petitioner depositing the aforesaid amount, the respondent shall open the portal to enable the petitioner to file the return of income.

16. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petition is closed.

**10.10.2025**

Neutral Citation : Yes / No

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To:

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**C.SARAVANAN, J.**

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