IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.41996 of 2025
and
W.M.P.Nos. 47035 & 47036 of 2025

Syed Ibrahim Jafar Sadiq ...Petitioner

Vs.

1.The Commissioner of Income Tax Department
No.63 Race Course Road,
Coimbatore 641 018

2.The Branch Manager
DBS Bank
No.23, Sree Krishna Towers
Bye Pass Road, Udumalpet
PIN 642 126

3. The Branch Manager
Bank of India
No.61, Nagarajan Street, Udumalpet
PIN 642126 ...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 and quash the order in original passed by the 1st respondent bearing DIN ITBA/NFAC/S/250/2025-26/1078184846(1) dated 04.07.2025 and forbear the 1st respondent from taking any recovery measures pursuant to the order in original passed by the 1st respondent bearing DIN ITBA/NFAC/S/250/2025-26/1078184846(1) dated 04.07.2025.

For Petitioner : Mr.S.Balaji

For Respondents : Mrs.M.Sheela for R1
Senior Standing Counsel
Mr.H.Siddharath
Junior Standing Counsel

ORDER

Mrs.M.Sheela, learned Senior Standing Counsel takes notice for the 1st Respondent.

2. This Writ Petition is being disposed of at the time of admission with the consent of the learned counsel for the Petitioner and learned Senior Standing Counsel for the 1st Respondent.

3. The petitioner has challenged the impugned order dated 04.07.2025 passed under Section 250 of the Income Tax Act, 1961 by the CIT Appeals in

this writ petition. The petitioner has challenged the impugned communication dated 04.07.2025 passed by the first respondent. The petitioner has however not made the Commissioner of Income Tax Appeals as a party to the proceedings.

4. By the impugned order, the Appellate Commissioner has dismissed the application filed for condonation of delay in filing the appeal against the assessment order dated 08.02.2024 passed for the assessment year 2018-2019 under Section 147 r/w Section 144 and Section 144-B of Income Tax Act 1961.

5. The application that was filed on 06.05.2025 was beyond the period of limitation under Section 246-A of the Income Tax Act. Hence, the application filed for condonation of the delay has been rejected by the Commissioner of Income Tax Appeal vide impugned order dated 04.07.2025.

6. Operative portion of the impugned order dated 04.07.2025 reads as

under :

"***2.9.*** *In light of the above legal position and judicial pronouncements, I have considered the reasons for delay in filing the present appeal. It is a settled position that in case of delay the assessee has to make out a case of having sufficient cause, and producing evidences towards the same strengthen the plea of the assessee. However, in this case, it is observed that the appellant has merely stated professional constraints without providing any specific details, documentary evidence, or justification sufficient to substantiate the claim of genuine hardship or circumstances beyond his control that caused the substantial delay of 423 days. The principles enunciated by the Hon'ble Supreme Court in Mst. Katiji's case emphasizes liberal consideration for condonation of delay. However, such discretion must be exercised judiciously and not arbitrarily. The condonation of delay cannot be granted merely on general statements without credible explanations. The Hon'ble Apex Court has clearly laid down the principle that the duty of diligence has to be strictly adhered to by the appellant. Mere negligence, carelessness or inaction does not constitute a 'sufficient cause' for condoning delay. There can be no sympathy for laxity or lack of due care. The sanctity of the limitation period has to be maintained and strictly enforced and cannot be ignored merely on grounds of enquiry or sympathy.*

3. *Considering the absence of specific, reasonable, and adequate and cause provided by the appellant, the condonation petition does not merit acceptance. The appellant has failed to demonstrate a sufficient cause warranting the exercise of discretion under Section 249 (3) of the Income Tax Act, 1961. The appeal filed by the appellant is held to be invalid and non-*

maintainable being out of time. Since the appeal is being dismissed on the threshold, there is no comments made on the merits. Accordingly, in the result the appeal is dismissed in limine.

4. *For statistical purposes, the appeal is treated as* ***DISMISSED. "***

7. Reading of the impugned order and the assessment order dated 08.02.2024 passed by the Assessing officer namely the assessment unit Income Tax department under Section 147 r/w Section 144 and 144-B of the Income Tax Act indicate the petitioner had not participated in the proceedings resulting in the aforesaid assessment order.

8. Records also reveal that the petitioner has made cash deposit to the tune of Rs.1,02,27,880/- to the Banking Company during the relevant period and therefore, it was construed that the income tax has escaped assessment re-warranting assessment under Section 148 of the Income Tax Act under the new Regime as in force with effect from 01.04.2021.

9. As such, the rejection of the petitioner's appeal on the ground of limitation does not merit any interference and therefore, the writ petition is liable to be dismissed for the relief sought for in this writ petition.

10. However, considering the fact that the petitioner has not participated in the proceedings and additions have been made under Section 69-A of the Income Tax Act on account of the cash deposit of Rs.1,02,27,880/- r/w Section 115 BBE of the Income Tax Act, an opportunity can be given to the petitioner on terms.

11. Considering the same, this case is remitted back to the assessing unit to re-do the exercise subject to the petitioner depositing 20% of the amount confirmed vide assessment order dated 08.02.2024 passed for the assessment year 2018-19 under Section 147 r/w Section 144 r/w and Section 144 B of the Income Tax Act.

12. Any amount recovered from the petitioner so far towards tax liability pursuant to the aforesaid assessment order shall be set off for the purpose of 20% of pre-deposit. The petitioner shall also simultaneously file a reply to the notice that preceedes the aforesaid assessment order within such time. The petitioner shall deposit the sum within a period of 30 days from the date of receipt of a copy of this order.

13. In case the Petitioner complies with the above stipulations, the assessing unit shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically raised/vacated.

14. In case the Petitioner fails to comply with any of the stipulations, the

Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

15. Needless to state, before passing any such order, the Respondent shall give due notice to the Petitioner.

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

Neutral Citation **12.11.2025**
gv

To

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C.SARAVANAN.J

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