IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.42894 of 2025
and
W.M.P.Nos.47970 and 47971 of 2025

The Modakkurichi Circle Teachers
and Public Servants Coopertaive T & C Society
Rep.by its Secretary (In-charge)
7, Co-operative Park
Modakukkurichi
Erode 638104,
Tamil Nadu
PAN:AADAM0638C ... Petitioner

Vs.

Chief Commissioner of Income Tax
REAC COIMBATORE,
Coimbatore 641 018. ... 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 of the respondent in Impugned rejection order under Section 119(2)(b) in DIN & Order No.ITBA/COM/F/17/2024-25/1070590291(1), dated 25.11.2024 in PAN:AADAM0638C for the AY 2021-22 and quash the same and further direct the respondent to condone the delay in filing the return of income for the AY 2021-22.

For Petitioner : M/s.G.Vardini Karthik

For Respondents : M/s.M.Sheela, Senior Standing Counsel
and
Mr.H.Siddharth, Junior Standing Counsel

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ORDER

In this writ petition, the petitioner has challenged the rejection order dated 25.11.2024 passed by the respondent under Section 119(2)(b) of the Income Tax Act, 1961.

2. By the impugned order, the application filed by the petitioner seeking condonation of delay of 10 days in filing the Return of Income by the petitioner for the Assessment Year 2021-2022 has been rejected with the following observations:-

> 7. In response to the above letter, the assessee filed its reply vide letter date 19.09.2024 which has been carefully perused and placed on record. It is seen from data on record/reply furnished by the assessee that the Audit for the A.Y.2021-22 was completed on 02.11.2021 which is within the due date of filing of return of income u/s 139(1) of the IT Act, 1961 for the relevant assessment year.
>
> Therefore, even though the audit was completed before the due date for filing of return of income U/s 139(1) of the Act for the said A.Y, the assessee failed to file the return of income without adducing any reasons for the same with appropriate documentary evidence. Hence, such non filing of return of income U/s 139(1) is clearly attributable to the assessee.

> 8. As such on examining the assessee's said application, it also CANNOT be said that:
>
> …..(i) the delay in furnishing the return of income within the due date/extended due date under sub-section (1) of section 139 of the Act was caused due to circumstances beyond the control of the assessee with appropriate documentary evidence/s"…………
>
> In terms of section 6(i) and quoted above of CBDT Circular No.13/2023 in F.No.173/21/2023-ITA-1 dated 26.07.2023.
>
> 9. Since the aforesaid condition of Para 6 of the said CBDT circular namely 6(i) is not satisfied for the said A.Y. Considering the overall matrix of the facts of case as stated above and material available on record, the assessee's application u/s 119(2)(b) of the Act, seeking condonation of delay in filing the return for the Assessment Year 2021-22 is hereby rejected.

3. It is observed that as per the earlier **Circular No.1/2022** dated **11.01.2022**, the due date for filing the Return of Income for the relevant Assessment year 2021-2022 under Section 139(1) of the Act had been extended to 15.03.2022.

4. The petitioner, being a co-operative society at Erode, was required to file the Return of Income Tax for the Assessment Year 2021-2022 within the extended time. However, the petitioner filed the Return of Income for the relevant Assessment Year 2021-2022 only on 25.03.2022. Since the Return of Income was filed belatedly, the Assessment Order under Section 143(3) read with Section 144B of the Act came to be passed on 28.12.2022.

5. By the aforesaid assessment order, the deduction that was otherwise available to the petitioner under Section 80P in Chapter VIA of the Act, amounting to Rs. 48,19,938/-, has been denied. Consequently, the said amount has been added to the income of the petitioner.

6. It is further stated that the petitioner has filed a statutory appeal before the Appellate Authority challenging the assessment order dated 28.12.2022 passed for the Assessment Year 2021-2022. The respondents have filed a detailed counter in the aforesaid appeal filed by the petitioner and have justified the assessment order.

7. It is submitted on behalf of the respondents that the petitioner, being a co-operative society, ought to have been vigilant in filing the Return of Income within the due date / extended time, extended vide circulars in view of 'COVID-19' Pandamic.

8. It is further submitted by the learned counsel for the Respondents that since the Return of Income was filed only on 25.03.2022, the petitioner did not comply with the requirement and therefore, the rejection of the application to condone the delay in filing the Return of Income filed on 26.12.2023 does not any warrant interference.

9. It is further submitted by the learned counsel for the Respondents that since the petitioner has already filed an appeal against the assessment order dated 28.12.2022 before the Appellate Commissioner under Section 246A of the Income Tax Act, 1961, this writ petition is liable to be dismissed.

10. Have considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondent and have perused the assessment order dated 28.12.2022 passed for the Assessment Year 2021-2022, the impugned order dated 25.11.2024 and **Circular No. 1/2022** dated **11.01.2022.**

11. The substantive benefit under Section 80P in Chapter VI A of the Act cannot be denied to the petitioner, particularly in light of the fact that the petitioner is a co-operative society. The marginal delay in filing the Return of Income under Section 139(1) of the Act deserves to be condoned so that the petitioner's claim under Section 80P of the Act can be examined on merits.

12. The assessment order also indicates that the addition made to the total income is solely on account of the denial of the deduction claimed under Section 80P(2)(a)(i) and 80(p)(2)(d) due to ineligibilty under Section 80AC of the Act, which can be adjudicated only after condoning the delay in filing the Return of Income by the petitioner for the Assessment Year 2021-2022.

13. Considering the fact that the petitioner has already filed an appeal against the assessment order dated 28.12.2022, the writ petition is disposed of by quashing the impugned order dated 25.11.2024 and the delay in filing the Return of Income under Section 139(1) of the Act for the Assessment Year 2021-2022 is condoned.

14. The Appellate Commissioner shall consider the petitioner's claim for deduction under Section 80P of the Act and pass orders on merits and in accordance with law in the appeal filed by the petitioner.

15. The writ petition is disposed of with the above observations. No costs.

Connected W.M.Ps are closed.

05.12.2025

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Neutral Citation : Yes / No

To:

Chief Commissioner of Income Tax
REAC COIMBATORE,
Coimbatore 641 018.

C.SARAVANAN, J.

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