BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.5159 of 2025
and
W.M.P.(MD)No.3769 of 2025

Murugesan Senthil ... Petitioner

-vs-

1.The Secretary,
Central Board of Direct Taxes,
Department of Revenue of Income Tax (OSD) (OT and WT),
Ministry of Finance, Jeevan Vihar Building,
New Delhi.

2.The Principal Chief Commissioner of Income Tax,
Tamil Nadu and Puducherry,
Room No.107, Mahatma Gandhi Road,
Chennai - 600 034.

3.Office of the Income Tax Officer,
Ward - II, Tuticorin. ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records pursuant to the impugned order of the second respondent dated 26.12.2024 in CHE/Coord/119/OT and WT/109/2023-24 and in rejecting the plea for the condonation of delay in filing the income tax returns of the petitioner relating the assessment year 2020-2021 and consequently direct the respondents to condone the delay of 62 days in filing the income tax returns of the petitioner.

For Petitioner	:	Ms.A.Lakshmi for M/s.Polax Legal Solutions
For R1	:	Mr.K.Sankararaman Central Government Standing Counsel
For R2 and R3	:	Mr.J.Parekh Kumar Standing Counsel

ORDER

The petitioner has approached this Court challenging the impugned communication of the second respondent, issued under the provisions of Section 119(2)(b) of the Income Tax Act, 1961 [hereinafter referred to as "the Act"], refusing to extend the time for filing revised return of income for the assessment year 2020-2021.

2. The learned counsel for the petitioner submits that in the peculiar facts and circumstances of the case and considering the circumstances under which an application under Section 119(2)(b) of the Act was filed, the competent authority ought to have permitted the filing of revised returns for the assessment year noticed above. It is submitted that instead of considering the merits of the application for condonation of delay, the competent authority considered the merits of the claim raised by the petitioner and concluded that the petitioner is not entitled to any relief under Section 119(2)(b) of the Act.

3. In support of her contentions, the learned counsel for the petitioner relied on the following decisions of the Kerala High Court.

(i) **Daisy** vs. **The Principal Commissioner of Income Tax, Trivandrum** [W.A.No.1420 of 2023]

(ii) **Mohan Poovampally Gopal** vs. **The Principal Commissioner of Income Tax, Mananchira, Kozhikode and another** [W.P.(C)No.26159 of 2024, dated 14.10.2024]

4. The learned Standing Counsels would submit that the impugned order is a detailed and speaking order. It is submitted that the power under Section 119(2)(b) of the Act can be exercised only in exceptional circumstances and not as a matter of course. It is submitted that though reference has been made to the merits of the matter, the competent authority has found no reason for extending the time for filing the revised returns for the assessment year in question and therefore, the petitioner has not made out any case for grant of relief under Article 226 of the Constitution of India.

5. Having heard the learned counsel for the petitioner and the learned Standing Counsels appearing for the respondents, I am of the view that the petitioner is right in contending that the application for condonation of delay should be considered not on the merits of the claim put forth by the petitioner, but on the question as to whether there was sufficient reason for condoning the delay in terms of the provisions contained in Section 119(2)(b) of the Act. A reading of the impugned communication indicates that the Principal Chief Commissioner of Income tax (second respondent) had considered the merits of the claims raised by the petitioner instead of considering the question as to whether there was sufficient reason to condone the delay/extend time in terms of the provisions contained in Section 119(2)(b) of the Act read with the provisions of the Circular No.9/2015 dated 09.06.2015 [Circular issued by the Central Board of Direct Taxes in the matter of consideration of claims for condonation of delay under Section 119(2)(b) of the Act].

6. In view of the aforesaid reasons, this Writ Petition is allowed. Consequently, the impugned communication of the second respondent dated 26.12.2024, is hereby quashed. The application filed by the petitioner is restored to the file of the second respondent, who shall pass fresh orders, after considering the observations made in this order as well as affording an opportunity of hearing to the petitioner. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

26.02.2025

NCC : Yes / No
Index : Yes / No
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To:-

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VIVEK KUMAR SINGH, J.

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