BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.08.2025**

CORAM:

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

W.P.(MD) No.21109 of 2025
and
W.M.P.(MD) No.16328 of 2025

M/S.Sithamalli Primary Agricultural Co-operative
Credit Society Ltd.,
rep by its Secretary,
N.Balakrishnan ... Petitioner

/vs./

The Chief Commissioner of Income Tax,
No.2, V.P. Rathinasamy Nadar Road,
CR Building,
Bibikulam,
Madurai District 625 002. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the Respondent in DIN and Order No.ITBA/COM/F/17/2024-25/1067699810(1) dated 16-08-2024 passed on 08-07-2024 and Quash the Impugned Order dated 08-07-2024 and 16-08-2024 as illegal, further for a direction to reconsider the Petition filed for condonation of delay in furnishing Income Tax returns dated

08-04-2023, in view of the Reply Letter dated 05-06-2024 enclosing the particulars called for production by the Respondent.

For Petitioner : Mr.Karthikaa Ashok

For Respondent : Mr.N.Dilip Kumar
Senior Standing Counsel

ORDER

Mr.N.Dilip Kumar, learned Senior Standing Counsel takes notice for the respondent.

2.The petitioner is before this Court against the impugned order, dated 16.08.2024, passed by the respondent/the Chief Commissioner of Income Tax Act, 1961, *(herein after referred to as Act)*, whereby, the delay in filing the ITR returns under Section 119(2)(b) of the Act has been rejected.

3.The dispute pertains to the assessment years 2018-19 to 2022-23. The due dates for filing the return of income under Section 139 of the Act for claiming deduction under Section 80P of the Act for the aforesaid assessment years are as under:-

AY	***Due Date***
2018-19	*31.10.2018*
2019-20	*31.09.2020*
2020-21	*15.02.2021*
2021-22	*15.03.2022*
2022-23	*07.11.2022*

4.The impugned order has referred to Circular No.13/2023, dated 26.07.2023 in File No.173/21/2023-ITA-I. It has referred to para 6 from the above circular, which reads as under:-

> *"6.In the context of para-5 above, the CCsIT/DGsIT while deciding such applications for condonation of delay in furnishing return of income, shall satisfy themselves that the applicant's case is a fit case for condonation under the existing provisions of the Act. The CCsIT/DGsIT shall examine the following while deciding such applications -*
>
> *(1) the delay in furnishing the return of income within the 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;*
>
> *(ii) where delay in furnishing return of income was caused due to delay in getting the accounts audited by statutory auditors appointed under the respective State Law under which such person is required to get his accounts audited, the date of completion of audit vis-à-vis the due date of furnishing the return of income under sub-section (1) of section 139 of the Act; and*

(iii) any other issue indicating towards tax avoidance or tax evasion specific to the case, which comes into the light in the course of verification and having bearing either in the relevant assessment year or establishing connection of relevant assessment year with other assessment year/s.

6.1. The cases falling under para 6(iii) above, would require further necessary action as per law."

5.However, para 7 from the said Circular contemplates a personal hearing. Relevant para reads as under:-

"7.The CCsIT/DGsIT shall preferably dispose the application within three months from the end of the month in which such application is received from the applicant or transferred by the Board. No order rejecting the application under section 119(2)(b) of the Act shall be passed without providing the applicant an opportunity of being heard."

6.A reading of the impugned order in para 4 indicates that a notice is said to have been issued to the petitioner. However, the same was not responded. The specific case of the petitioner is that the petitioner has not been served with such notice and thus, had suffered the impugned order. Para 4 of the impugned order reads as under:-

"4.Considering the petition filed by the assesse and to verify the conditions as mandated by the CBDT, an opportunity of being heard was given to the assesse by way of a letter bearing DIN calling for documentary evidences in support of its claim and to show as to how the delay in furnishing the return of income for the assessment year 2020-21 was due to circumstances beyond their control. The content of the letter issued is as under:-

"This office acknowledges receipt of your application. In this connection, I am directed to request you to furnish the following information: -

1.Date of submission of documents to the Audit.

2.Date of completion of Audit.

3. Date of receipt of Audit report.

4.Reason for delay in submitting the application u/s 119(2)(b) from 26.07.2023 to till date.

5.Date of filing of return for the following assessment years:

Asst.Year	***Date of filing of return of income***
2017-18	
2018-19	
2019-20	
2020-21	
2021-22	
2022-23	

Please see to it that each of the above-mentioned point is replied separately. Your reply covering all the above points along with documentary evidences, must reach this office within seven working days of receipt of this letter." "

7.This Court has taken a categorical stand in W.P.(MD) Nos.14662 to 14671 of 2024 on 11.07.2024, wherein, the Court has examined Section 119(2)(b) of the Act and has held that the procedures should not come in the way of legitimate grant of deductions/exemptions, if an assessee is otherwise is entitled to such benefit.

8.Considering the same, I am inclined to quash the impugned order and remit the case back to the respondent to pass a fresh order on merits and in accordance with law, within a period of 8 weeks from the date of receipt of a copy of this order. Needless to state, before passing final orders, the petitioner shall be heard. The petitioner shall furnish the details called for referred to in para 4 of the impugned order, content of which has been extracted above.

9.Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
mm

04.08.2025

<u>C.SARAVANAN, J.</u>

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