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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 7103/2025 CM APPL. 32087/2025

SIDDHARTHA KOTHARI .....Petitioner

Through: Mr. Salil Kumar, Ms. Ananya Kapoor, Mr. Shivam Yadav, Mr. Aanjul Dalela, Advocates.

versus

COMMISSIONER OF INCOME TAX INTERNATIONAL TAXATION 3 & ANR. .....Respondent

Through: Mr. Sunil Agarwal, SSC, Mr. Shivansh B. Pandya, JSC, Mr. Viplav Acharya, JSC, Ms. Priya Sarkar, Mr. Utkarsh Tiwari, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% **23.05.2025**

CM APPL. 32088/2025(Exemption)

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

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3. Issue notice. The learned counsel for the respondent accepts notice.

4. The petitioner has filed the present petition impugning an order dated 08.11.2024, passed under Section 119(2)(b) of the Income Tax Act, 1961 **[the Act],** whereby the petitioner's request for condoning the delay in filing the return for the Assessment Year [**AY**] 2023-24 was rejected. It is the petitioner's case that he is a non-resident and was under the erroneous assumption that the return for AY 2023-2024 could be belatedly filed up to

31.03.2024. Accordingly, he contacted a Chartered Accountant in January, 2024 but was informed that even the belated return of income could not be filed beyond 31.12.2023. In this context, the petitioner made a request for condoning the delay in filing his return.

5. It is stated that the concerned officer had granted the petitioner an opportunity to be heard; however, the said notice was neither communicated nor could it be downloaded on account of server issues. The petitioner has furnished a screenshot of the portal which indicates that "*Document is not able to download due to Server Issue*." Thus, the petitioner could not access the said notice.

6. Mr. Sunil Agarwal, the learned counsel appearing for the Revenue, submits that without going into the question of whether the document could be accessed or not, the impugned order may be set aside and the concerned authority may be permitted to pass a fresh order after affording the petitioner an opportunity to be heard. The course suggested by Mr. Agarwal commends itself to this Court. Accordingly, the impugned order is set aside. The matter is remanded to the concerned authority to consider afresh.

7. The petition is disposed of in the aforesaid terms.

8. All pending applications stand disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 23, 2025

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Click here to check corrigendum, if any