



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

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Judgment Reserved on: 04.11.2025

Judgment delivered on: 08.12.2025

Judgment uploaded on: As per Digital Signature~

+ **W.P.(C) 405/2024**

M/S SIREZ LIMITED

.....Petitioner

versus

UNION OF INDIA & ORS.

.....Respondents

Advocates who appeared in this case

For the Petitioner : Mr. Santosh Kumar, Sr. Adv. with Mr. Medhurendra Sharma and Mr. Rajiv Ranjan Mishra, Advocates.

For the Respondents : Ms. Bakshi Vinita, SPC for UOI.
Mr. Vipul Agrawal, SSC, Ms. Sakshi Sehawal, Mr. Akshat Singh, JSCs and Mr. Gaoraang Ranjan and Ms. Harshita Kotru, Advocates.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

V. KAMESWAR RAO, J.

1. This petition has been filed with the following prayers:

"i) Set aside the order dated 23.11.2023 passed by the respondent no.1.

ii) Issue Writ of Mandamus/order/direction whereby directing the respondents to reimburse/release TDS Amount (Rs.19,73,540).

iii) Cost of this petition."

2. The facts as borne out from the petition are that the petitioner



company was incorporated on 15.06.2005 and is engaged in the work of digital marketing, content marketing, digital media planning, social media marketing, mobile app development (android and iOS), website development & inbound marketing. The petitioner did not file its Return of Income (ITR) for the Assessment Years (AY) 2018-19, even after the extended period upto 31.10.2018. The petitioner filed its ITR on 20.09.2021 after a delay of 30 months. Thereafter, the petitioner filed an application *vide* letter dated 20.09.2021 under Section 119(2)(b) of the Income Tax Act, 1961 (the Act) for condonation of delay in filing the ITR and claim of carry forward of business loss to the tune of Rs.1,06,60,750/-, stating that due to an *inter se* dispute amongst the directors, the return could not be filed.

3. Pursuant thereto, the petitioner company also sought refund amounting to Rs.19,73,540/- on account of the TDS deducted during the previous year. The respondent no.1 sent a letter *inter alia* asking the petitioner to furnish more documents, and thereafter, the respondent no.1 sought certain information and documents from the petitioner company. On 17.09.2022, the petitioner company via email furnished the documents as required by the respondent no. 1 viz. the complete draft returns of income; Computation of Income and Tax Audit reports.

4. Mr. Santosh Kumar, Senior Advocate appearing for the petitioner submitted that since the inception of the petitioner company, the petitioner has regularly filed its ITR without any delay, however, due to a dispute between the directors of the petitioner company, coupled with financial crunch, it could not file its ITR for the AY 2018-19 within the prescribed time limitation which was extended upto 31.10.2018. He further stated that by the time the dispute could be resolved, the delay of 30 months had



already occurred. He stated that as a result of delay, the annual filing with the Registrar of Companies was also delayed, for which the petitioner company has paid the late fee as well.

5. It is his submission that preceding to AY 2018-19, the petitioner company had suffered loss under the head of 'Profit' from business and Profession of Rs.1,06,60,750/- which the petitioner company intended to carry forward to the subsequent previous years. He stated that this amount of loss is substantial and is to be carried forward, without which the petitioner company will not be able to avail the benefit of Section 72 of the Act for the future AYs. Additionally, the company would have to incur huge tax liability. Consequently, the benefit of TDS deductions to the tune of 19,73,540/- for the relevant previous year i.e. 2017-18 will also go unclaimed if the delay in filing the return is not condoned, and this will again multiply the loss of the petitioner company as a tax refund and would further add to the distress of the petitioner company.

6. He submitted that on 02.09.2022, pursuant to its application under Section 119(2)(b) for condonation of delay, the respondent no.1 had asked the petitioner company to furnish the hard copies of several documents such as draft return of income sought to be filed for (AY) 2018-2019 duly incorporating the claim for carry forward of loss based on the audited accounts, computation of ITR proposed to be filed for AY 2018-19 and hard copies of Tax Audit Report etc. He further stated on 26.10.2021, the respondent no.1 again directed the petitioner to furnish the same documents. He stated that the petitioner *vide* its mail dated 17.09.2022 sent the entire documents as asked. He stated that after a gap of one year, the respondent no.1 *vide* a letter dated 18.11.2022 sought clarification from the petitioner



regarding differences in the refund amount. The petitioner adverted to this letter *vide* an email dated 13.12.2022. He submitted that the respondent no.1 had directed the petitioner to present its case on 16.11.2023, and file written submissions/documents in support of its claim under 119(2)(b) of the Act. The petitioner submitted its detailed submissions/ documents and also explained the details of the dispute which had occurred between the directors of the petitioner company.

7. He submitted that the dispute had occurred between the Directors namely- i. Mr. CVVS Krishna, ii. Mrs. Chandaluri Lakshmi Rani, iii. Mr. Gaurav Dalal & iv. Mr. Anuj Juneja and these persons were also the Directors of the holding company of M/s. Apptology Technology Pvt. Ltd. He stated the main reason for the dispute was a difference of opinion between the then directors i.e. Ms. Gaurav Dalal and Mr. Anuj Juneja, in running the operations of the two companies. He further stated that in the third quarter of financial year (FY) 2017-18, the disagreement between the Directors increased and this infighting amongst them led to the resignation of some Directors in the petitioner company. To demonstrate the differences between them, Mr. Kumar has given the tabulated details of the appointment and resignation of the directors which we produce as under:-

Name	Designation	Appointment/Removal
Gaurav Dalal	Additional Director	Appointed on 27.11.2015
Anuj Juneja	Additional Director	Appointed on 25.02.2016
Anuj Juneja	Director	Appointed on 30.09.2016
Gaurav Dalal	Director	Appointed on 30.09.2016
Anuj Juneja	Director	Resigned on 16.11.2017
Chandaluri Sarojini Babi	Whole time Director	Appointed on 01.02.2018
Gaurav Dalal	Director	Resigned on 02.02.2018

8. He submitted that there was complete lack of cohesion among the Directors, due to which many persons kept resigning and it consequently led



to the delay in filing the ITR. Even though a company is a separate legal identity, in practical reality, the management of a company is inherently dependent on its Directors and such financial and operational hardship caused by the dispute made it impossible to ensure timely compliance. He stated that the respondent no.1 rejected the application of the petitioner in an arbitrary and discriminatory manner and held it to be without any genuine hardship.

9. As per him, the argument of the counsel for the respondents that a CA would have solved the issue is vague, as the same would have required the authorization/oversight of the directors which was not feasible at the time.

10. He also submitted that there was only a singular instance of delay which had arisen in the AY 2018-19 due to extraordinary circumstances which were beyond the control of the petitioner and the same cannot be the reason for rejecting the application.

11. Mr. Kumar submitted that one of the founding directors of the petitioner company namely CVVS Krishna was forced to take up a full-time job for the first time in his career, after two long decades of entrepreneurship, which demonstrates the financial condition of the petitioner company. He stated that the Director Krishna paid dues to the employees, banks, PF and GST department out of his own income and in order to meet this, he even disposed of his residential unit in Delhi. This, he stated, indicates the petitioner's genuine hardship.

12. It is his submission that the respondents rejected the condonation of delay application without appreciating the reasons stated by the petitioner and in a manner contrary to the precedents set by various courts. He



reiterated that this would result in the petitioner suffering irreparable loss as on one hand, the petitioner company would be deprived from getting the benefit of section 72 of Act and on the other hand, the benefit of TDS deductions to the tune of Rs.19,73,540/- for the relevant previous year i.e. 2017-18 will go unclaimed if the delay is not condoned.

13. It is his submission that the delay occurred is not deliberate or willing. He stated that the petitioner had furnished the details before the respondents with respect to both- genuine hardship and correctness and hence, the authorities should have condoned the delay. He further stated that the circular number 9/2015 dated 09.06.2015 issued by the respondents instructs the authorities to exercise their powers under Section 119 of the Act. The legislature has conferred power on the authority to condone the delay and construe the term “genuine hardship” liberally to do substantive justice to the parties. The refusal of condonation by the respondents at the very threshold has defeated the cause of justice.

14. Mr. Kumar has placed reliance on the judgment in the case of ***Central Board of Direct Taxes v. Vasudev Adigas Fast Food (P) Ltd reported in [2021] 128 taxmann.com 287*** wherein, it is held that while deciding the petition for condonation of delay, the Authority was not justified in rejecting the delay petition when the delay was caused due to internal disputes and prolonged litigation between promoters and investors concerning the management of the assessee’s company which led to delay in statutory audits. He has also placed reliance on the decision of the Bombay High Court in the case of ***Sitaldas K. Motwani v. Director General of Income-tax (international Taxation), New Delhi, [2010] 323 (Bombay)***, which reads as under:



“The phrase genuine hardship’ used in section 119 (2)(b) should have been construed liberally even when the petitioner has complied with all the conditions mentioned in Circular dated October 12, 1993. The Legislature has conferred the power to condone delay to enable the authorities to do substantive justice to the parties by disposing of the matters on the merits. The expression genuine’ has received a liberal meaning in view of the law laid down by the apex court referred to hereinabove and while considering this aspect, the authorities are expected to bear in mind that ordinarily the applicant, applying for Condonation of delay does not stand to benefit by lodging its claim late. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold an cause of justice being defeated. As against this, when delay is condoned the highest that can happen is that a cause would be decided on the merits after hearing the parties. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred for the other side cannot claim to have a vested right in injustice being done because of a non-deliberated delay. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk. The approach of the authorities should be justice oriented so as to advance the cause of justice. If refund is legitimately due to the applicant, mere delay should not defeat the claim for refund.”

15. He relied upon the principle of unjust enrichment to state that it would be unjust to allow one person to retain a benefit at the expense of another. To substantiate this argument, he placed reliance on the judgment in the case of ***Mafatlal Industries Ltd. v. Union of India [1997] 5 SCC 536*** wherein, the Court held that once unjust enrichment is proved, restitution to *status quo ante* must prevail and the person must be given back that benefit.

16. Reliance has also been placed by Mr. Kumar on the judgment in the case of ***VRG Electronics Pvt. Ltd. v. Principal Commissioner of Income***



Tax (Delhi) 7 WP(C) 753/2025 wherein, this Court has held as under:

“23. We may also refer to the judgment of the Madras High Court in the case of Seshammal (R) v. ITO, (1999) 237 185 (Madras) wherein it held as under:

“7. This is hardly the manner in which the State is expected to deal with the citizens, who in their anxiety to comply with all the requirements of the Act pay monies as advance tax to the State, even though the monies were not actually required to be paid by them and thereafter, seek refund of the monies so paid by mistake after the proceedings under the Act are dropped by the authorities concerned. The State is not entitled to plead the hypertechnical plea of limitation in such a situation to avoid return of the amounts. Section 119 of the Act vests ample power in the Board to render justice in such a situation. The Board has acted arbitrarily in rejecting the petitioner's request for refund.”

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26. The CBDT Circular No. 09/2015 highlights the fact that while considering the case under Section 119(2)(b), it is to be seen that the case is of genuine hardship on merits.

27. The PCIT who admittedly exercises powers under Section 119(2)(b) of the Act would amount to a quasi judicial body and is under obligation to pass a reasoned order.”

17. Mr. Kumar has also heavily relied upon the judgment in the case of **Pankaj Kailash Agarwal v. Assistant Commissioner of Income Tax Officer, 17(1) Mumbai and Ors. WP(L) No. 7783/2024** wherein, the Bombay High Court has held as under:

“13. In our view, the Legislature has conferred power on respondent No. 3 to condone the delay to enable the authorities to do substantive justice to the parties by disposing of matter on the merits. Routinely passing the order without appreciating the reasons why the provisions for condonation of delay has been provided in the Act, defeats the cause of justice.



14. In the circumstances, we hereby quash and set aside the impugned order dated September 1, 2023.”

18. Concluding his submissions, Mr. Kumar submitted that since the delay was not deliberate, no malafide should be attributed to the lawful claim of credit of TDS of the petitioner, and the delay must be condoned.

19. Contesting the submissions of the petitioner, Mr. Vipul Agrawal learned Senior Standing Counsel stated that the present writ petition is premature and deserves to be dismissed. He stated that pursuant to the application dated 20.09.2021, the CBDT rejected the same by passing a speaking order under Section 119(2)(b) of the Act, for AY 2018-19 vide F. No. 312/154/2021-OT dated 23.11.2023, elucidating reasons for the same. He stated that filing of the ITR and claim of refund are governed by statutory provisions of the Act and only in cases of genuine hardship, the condonation of delay under Section 119(2)(b) is permitted.

20. He submitted that the due date of filing of ITR in the case of company (petitioner company) for A.Y. 2018-19 was 30.09.2018 which was further extended up to 15.10.2018. It was further extended up to 31.10.2018 and evidently, the petitioner had sufficient time to file his return of income within the due date or in the extended period of time but the petitioner failed to do so.

21. He stated internal dispute among the directors of a company is not genuine hardship as a company has a separate identity, is a separate entity of its own different from its directors. He stated that the company, in order to take the benefits provided under the Act, has to comply with the statutory provisions therein. It is his submission that engaging a CA for filing the ITR is not something that is affected by dispute amongst the Directors.



22. He submitted that the original ITR for AY 2017-18 was filed by the petitioner under Section 139(4) on 07.11.2017, revised under Section 139(5) on 25.07.2018, whereas the date of filing of return under Section 139(1) was 31.07.2017. Similarly, for the AY 2019-20, the petitioner filed the ITR under 139(4) on 30.07.2020, return under Section 139(1) on 31.08.2019. This, he stated showed the casual approach of the petitioner in following the statutory obligations.

23. It is his submission that there was an obligation upon the petitioner/assessee and on the management of the company to comply with these statutory provisions. He further stated that mere internal disputes do not constitute genuine hardship and no documents were made available to the department to prove such dispute.

24. It is further his submission that only one director had resigned from the company and others were available to look after the management which demerits the case of the petitioner. He also stated that the statement of the petitioner that the founding Director Mr. CVVS Krishna was forced to take up a full time job is only made to make the petitioner's grievance sound real, in fact, no documents have been provided to the department to substantiate this.

25. Mr. Agrawal has placed reliance on the decision of this Court in the case of ***Lava International Limited v. CBDT & Ors. WPC 8293/2024***, vide order dated 30.05.2024, wherein this Court upheld the order passed by CBDT refusing to invoke the powers of condonation of delay for the Return filed by the petitioner for AY 2019-20, which reads as under:

“6. We find no justification to interfere with the ultimate view which has been taken and which stands succinctly encapsulated in para 9 of the impugned order and where the authority has



spoken of the imperatives and necessity of ensuring statutory compliance with the timeframes which otherwise stand constructed under the Act, as follows:-

"9. It should be noted that the legislature has provided time limits for certain obligations under the Act and these time limits have to be observed to be able to claim those deductions, allowance and avoid interest and penalty. This cannot be termed as hardship but it is compliance requirements imposed by law in the interest of proper regulation of the Act. If these time limits were to be relaxed in a particular case on mere fact that a default occurred due to some inadvertence then there will be no sanctity of limitation prescribed by the legislature. Therefore, power of Condonation u/s 119(2) can be exercised to deal with the extraordinary circumstances only which would have led to delay in statutory compliance and the same cannot be exercised routinely."

7. On an overall conspectus of the aforesaid, we find no justification to interfere with the order impugned. The writ petition fails and shall stand dismissed."

26. He further submitted that the reliance of the petitioner on the decision in the case of ***K.C Antony v. Principal Commissioner of Income Tax & Anr. [2022 SCC OnLineKer 5830]*** is misplaced as the Court in this case was dealing in the facts wherein the application of the assessee was rejected on the ground of delay in filing the application under Section 119(2)(b) of the Act in view of the CBDT Circular and the Court held that Section 119(2)(b) of the Act does not impose any limitation for the purposes of filing an application for condonation of delay. He stated that this judgment would not be applicable to the facts of the present case wherein, the application of the assessee has been rightly rejected due to lack of evidence of extraordinary circumstances to justify the existence of genuine hardship



which prevented the assessee from filing the ITR on time.

27. Hence, concluding his submissions, Mr. Agrawal stated that the petitioner should have filed the ITR on time for availing the benefits under Section 72, as prescribed by the Act. He stated no plausible reasons were given by the petitioner for its failure to file the ITR and no case of genuine hardship could be established.

28. Having heard the learned counsel for the parties and perused the record, the short issue which arises for consideration is whether the respondents are justified in rejecting the application filed by the petitioner herein, under Section 119 of the Act seeking condonation of delay in filing the ITR.

29. At the outset, it may be stated here that this writ petition is concerned with AY 2018-19 and the ITR was required to be filed on 30.09.2018, which was extended upto 15.10.2018 and further extended upto 31.10.2018. Considering the said date, the ITR was filed with a delay of thirty months on 20.09.2021.

30. The case of the petitioner as contended by Mr. Santosh Kumar is primarily that there was a dispute between the Directors of the petitioner company coupled with financial crunch and as such it could not file its ITR for the AY 2018-19 within the time prescribed. It is only after the resolution of the dispute which took almost thirty months, the ITR was filed immediately thereafter.

31. The submission is not at all convincing, in view of the stand taken by the respondents in their counter affidavit inasmuch as the internal dispute among the Directors of the company is not a genuine hardship, which can be the ground on which the delay can be condoned. Even otherwise, we are of



the view, the dispute between the Directors, when the company is an ongoing concern cannot be the reason to not to file the ITR which is a statutory obligation on the part of the company. The plea of dispute amongst the Directors is not borne out from the record. No document has been filed evidencing the same. That apart, the fact that ITR for AY 2017-18 was filed on 31.07.2017 and similarly for AY 2019-20 on 30.07.2020 shows that the company was filing ITR for those AY's and the same could have been filed for the AY 2018-19 which was filed on 20.09.2021, that is much later than the above two assessment years.

32. Insofar as the reliance placed by Mr. Kumar on the judgments in the cases of *Vasudev Adigas Fast Food (P) Ltd (supra)*, *Mafatlal Industries Ltd. (supra)*, *Sitaldas K. Motwani (supra)*, *VRG Electronics Pvt. Ltd. (supra)*, *Pankaj Kailash Agarwal (supra)* and *K.C Antony (supra)* are concerned, the same are not applicable to the facts of this case.

33. As far as the judgment of *Vasudev Adigas Fast Food (P) Ltd (supra)* is concerned, wherein the facts are similar to the present case inasmuch as the delay of almost two years in filing the ITR was due to a dispute between the management of the company and its promoters/investors, the same fact was sufficiently proved owing to the ongoing litigations between the two, before the Company Law Board (CLB), Chennai, and pending appeal before the Karnataka High Court, whereby the Karnataka High Court *vide* its order appointed an Auditor to complete the statutory audit of the assessee's books of accounts and to file the ITR. This proved beyond doubt the genuine hardship of the assessee in the peculiar facts of the case. However, such are not the facts of the present appeal, wherein, no documents/records of any pending litigation have been produced before the



department or even before us to show how the dispute between the Directors seriously affected the assessee from filing the ITR even in the extended period of limitation. This judgement, even though, it was later upheld by the Supreme Court, the Court observed the following:-

“3. Having heard Shri N. Venkatraman, learned Additional Solicitor General and having considered the facts and circumstances due to which the respondent-assessee, at the relevant time, could not file the return of income within the time prescribed, the order passed by the High Court directing the Revenue to condone the delay and accept the belated return of income and to consider the return of income in accordance with law on merits does not warrant any interference. The facts which led to the assessee in late filing of the return of income are glaring. Therefore, no interference of this court is called for, in exercise of powers under article 136 of the Constitution of India. However, at the same time, the question of law, ‘whether the Central Board of Direct Taxes, while exercising the powers under section 119(2)(b) of the Income-tax Act, can direct to condone the delay in filing the return of income’ is kept open to be considered in an appropriate case. It is further observed that the impugned judgment and order passed by the High Court be not treated as a precedent.”

[Emphasis supplied]

34. Even in the case of ***Pankaj Kailash Agarwal (supra)***, the assessee had filed his ITR within the due date, also got his accounts audited and the ITR was also processed. Due to the reason that the audit report in Form 10 CCB had not been uploaded online, the deduction under Section 80 IC of the Act were denied to the assessee but owing to the sincere efforts by the assessee to comply with all statutory filing obligations, the Court construed the same to be ‘genuine hardship’ and allowed the condonation in favour of the



assessee. Similarly, in the case of *VRG Electronics Pvt. Ltd. (supra)*, the delay in filing the ITR was of only 60 days, due to an inadvertence on the part of the accountant who failed to file the ITR owing to his poor health. This judgment cannot be applicable in the present case where the delay is as huge as 30 months. Surely by allowing such condonation would lead to a vast expansion of the term ‘genuine hardship’, that too in the absence of any extraordinary circumstances, advanced by the petitioner.

35. The Court in *Sitaldas K. Motwani (supra)*, has explained the scope of ‘genuine hardship’ and held the same must be construed liberally, owing to the legislative intent behind the provision to impart justice to the parties but such liberal construction to allow a delay of 30 months on a generic reason would amount to travesty of the very legislative intent itself.

36. Insofar as the judgment of *K.C Antony (supra)*, on which the petitioner has placed reliance is concerned, we note that the same has been overruled by a Division Bench of the Kerala High Court in *[2025] 173 taxmann.com 493 (Kerala)[03-12-2024]*. Even otherwise, the issue in the case was related to the limitation period for filing the application under Section 119 of the Act, as such has no application to the facts of the present petition.

37. Accordingly, this petition is dismissed.

V. KAMESWAR RAO, J

MADHU JAIN, J

DECEMBER 08, 2025/RK/RT