OD-12

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/188/2026

ACHARYA SOMDEB BHADRA
VS
UNION OF INDIA AND ORS.

BEFORE:
The Hon'ble JUSTICE SMITA DAS DE
Date : 13th MAY, 2026.

Appearance:
Mr. Shiv Shankar Sharma, Adv.
Ms. Rima Das, Adv.
...for the petitioner

Mr. Prithu Dudhoria, Adv.
Ms. Madhu Jana, Adv.
Mr. Wahed Reja, Adv.
...for the respondent

The Court:- The petitioner has filed the present writ Petition challenging the Order dated 20.06.2025passed by the respondent authority under Section 119(2)(d) of the Income Tax At, 1961, hereinafter referred to as the said Act, whereby the petitioner's application for condonation of delay in filing the return of income for the Assessment Year 2022-23 has been rejected.

Apropos the facts of the case, the petitioner is a non-resident of India since the Assessment Year 2017-18 the petitioner presently resides at 1288 AV. DEA Canadian-DE-Montreal, Suite-, Montreal QCH 3C 1B3 Canada.

For the Assessment Year 2021-22 the petitioner has been holding a share in joint property at SDS NRI Residency, Gautam Buddha Nagar, Noida valued at Rs. 4700000 on which tax has been deducted at source amounting to Rs. 10,34,000/-. The petitioner has been unaware of the legal implications relating to the refund of TDS and consequently could not file the return within the statutory time limit. Thereafter the petitioner made an application under Section 119(2)(b) of the said Act before the competent authority, seeking permission to file the return belatedly on the ground of genuine hardships.

The Learned Counsel for the petitioner submits that non-filing of the return is covered by CBDT Circular No. 11/2024 dated 01.10.2024 which provides that condonation may be granted in cases of genuine hardships. It is submitted that the petitioner has sufficient reasons to establish genuine hardships for the delay in filing the return.

The petitioner submits that the explanation regarding the non-filing of the return has been stated in paragraph Nos. 8, 9 and 10 of the Writ Petition which sufficiently explains the delay and justifies condonation.

The Learned Counsel for the respondent submits that the petitioner being a non-resident could have filed the return electronically from abroad. The reason furnished by the petitioner do not constitute genuine hardships within the meaning of the CBDT Circular and the respondent authority has rightly observed in the order of rejection that the assessee is a habitual non-filer of returns.

Having heard the parties and upon perusing the materials on records, this Court is prima facie satisfied with regard to the explanation offered by the petitioner in paragraph Nos. 8, 9 and 10 of the Writ Petition. The impugned order dated 20.06.2025 is thus liable to be set aside for re-examination in accordance with law.

In view of the above, the order dated 20.06.2025 is quashed and set aside. The respondent No. 2 is directed to revisit the issue and allow the petitioner to file the return of income electronically for the Assessment Year 2022-23 on the Income Tax Portal, if required, physical copies of the return shall be filed before the concerned assessing officer within 30 days from the date of this order, subject to payment of cost assessed at Rs. 10,000/- in favour of the benevolent fund of the Income Tax Department within 7 days from the date.

The return once filed shall be considered and shall be assessed by the concerned assessing officer in accordance with law, failing to file the return for the assessment year in question within the stipulated time, shall stand forfeited.

With the above observations and directions the Writ Petition is disposed of without going into the merits of this case. All points are left open to be decided by the authority concerned.

However, it is made clear, that in the event the petitioner fails to deposit the assessed costs within the stipulated period in that event filing of the return for the assessment year in question shall not be entertained by the Income Tax Department.

(SMITA DAS DE, J.)

S.De