IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-02-2026

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP Nos.2842 & 2849 of 2023
and
WMP Nos. 2959, 2962, 2969 & 2970 of 2023

M/s.Redisolve Software P Ltd.,
(Represented by its Director),
No.18, Cenotaph 1st Street,
Alwarpet, Chennai 600 035
PAN: AADCR3467N

Petitioner in both petitions

Vs

1. The Under secretary (ITA-I)
Central Board of Direct Taxes,
North Block, New Delhi.

2. The Principal Chief Commissioner of Income Tax,
Income Tax Department,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

3. The Principal Commissioner of Income Tax
Chennai-4,
Income Tax Department,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

4. The Deputy Commissioner of Income Tax
Circle 1, LTU Chennai,
Income Tax Department,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

Respondents in both
petitions

PRAYER in W.P.No.2842 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, to call for the records of the writ petitioner company on the file of the first respondent to quash the impugned order dated 10.10.2022 passed u/s 119(2)(b) of the Income Tax Act, 1961 in F.No.197/43/2015-ITA-I pertaining to the Assessment year 2011-2012 and consequentially direct the 1st respondent to treat the return of income as being filed within the time limit prescribed under section 139(1) of the Act.

PRAYER in WP No. 2849 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, to call for the records of the writ petitioner company on the file of the first respondent to quash the impugned order dated 10.10.2022 passed u/s 119(2)(b) of the Income Tax Act, 1961 in F.No.197/43/2015-ITA-I pertaining to the Assessment year 2012-2013 and consequentially direct the 1st respondent to treat the return of income as being filed within the time limit prescribed under section 139(1) of the Act.

Appearance of counsel in both petitions

For Petitioner(s): Mr.A.S.Sriraman

For Respondent(s): Mrs.S. Premalatha,
Senior Standing Counsel

COMMON ORDER

Since the issue involved and the relief sought for by the petitioner in both these petitions are identical in nature, these writ petitions were heard together and disposed of of vide this common order.

2. The petitioner is before this Court against the impugned orders dated

10.10.2022 passed for the Assessment Years 2011-2012 and 2012-2013 under Section 119(2) (b) of the Income Tax Act, 1961.

3. The Operative Portion of the Impugned Order, declining to condone the delay in filing the Return of Income belatedly for the Assessment Years 2011-12 and 2012-2013 is reproduced below:

10. For A.Y. 2011-12 and 2012-13

10.1 In view of the detailed discussions in the Paras supra including at Para 6, 7 and 8 and their sub-paras and in view of the contradictions and discrepancies in applicant's case and particularly that application has been made only after the orders of the Assessing Officer denying the claims of applicant u/s 147 r.w.s 143(3), it is held that the abnormal delay and default in complying with the provisions of section 139(1) of the Act for A.Y 2011-12 and A.Y. 2012-13 was not due to circumstances beyond the control of the applicant due to the following reasons-

10.2 When the ROI for the A.Y 2010-11 was filed though belatedly on 31.03.2012, it is not clear as to what hampered the applicant from filing its ROI for A.Y 2011-12 and 2012-13 soon after, instead of filing them after a gap of twenty-three months and twelve months respectively from the due date of filing ROIs. As per the submissions of the applicant, the annual reports of the applicant company were finalized by 06.07.2011 and 06.07.2012 for A.Y.s 2011-12 and 2012-13 respectively. Further, the applicant has reported in its ROIs for A.Y.s 2011-12 and 2012-13 that the audit reports u/s 44AB of the Act were finalized by 30.09.2011 and 15.09.2012 respectively, i.e within the due dates.

Moreover, no documentary evidence nor substantiated explanation has been provided to demonstrate the reasons for abnormal delay or even for the efforts, if any, made by the applicant to avoid the inordinate delay in filing the ROI for A.Y.s 2011-12 and 2012-13.

10.3 The applicant chose to file the condonation application only after re-assessment u/s 147 of the Act were completed (for A.Y 2011-12 & A.Y 2012-13) on 27.01.2015 and 30.03.2015 respectively, denying the applicant's claim of deduction u/s 10A of the Act due to late filing of return for A.Y. 2011-12 and A.Y. 2012-13. The inordinate delay is inexplicable.

10.4 Further, the applicant has not provided any evidences substantiating that it pursued the matter to retrieve the financials from the erstwhile Auditors M/s KKSR & Associates, or for retrieving the information from the laptop of late Mr. Girish. Further, the applicant has not provided any documentary evidence of appointment of Mr. Ashok Duraisamy as Auditor / appointment of Mr. Parthiban as Auditor or any documentary evidence regarding the details/facts allegations of professional misconduct under the Chartered

> Accountants Act by which, Mr. Ashok Duraisamy was barred by law from taking up any assignment as an Auditor. No genuine reasonable explanation has been filed by applicant for AY 2011-12 and AY 2012-13 to explain the inordinate delay in filing of ROIs even after the filing of ROI for AY 2010-11 on 31.03.2012 though the audit reports and annual reports were completed in time and Mr. Ashok Duraisamy continued as its auditor. Genuine hardship has not been established.
>
> 11 Accordingly, it is held that the petition/application dated 01.07.2015 of M/s Redsolve Software Pvt. Ltd. filed for condonation of delay in filing of ROIs for AYs 2011-12 and 2012-13 is not eligible u/s 119(2)(b) of the Act and rejected accordingly.
>
> 12. In conclusion, the delay in filing of ROI only for AY 2010-11 is condoned u/s 119(2)(b) of the Income-tax Act, 1961. The plea for condonation of delay u/s 119(2)(b) for AY 2011-12 and AY 2012-13 does not succeed and is rejected.
>
> 13. This issues with approval of the Member (IT&R), Central Board of Direct Taxes.

4. By the impugned order the delay in filing the Return of Income for the Assessment Year 2010-2011 has been condoned, while application filed for condonation of delay in filing the Return of Income for the Assessment Years 2011-2012 and 2012-2013 has been rejected.

5. Undisputed facts of the case is that the petitioner company was managed by its Managing Director, late Mr.Saiprasad Girish, who died on 01.10.2010. After the death of late Mr.Saiprasad Girish, Mrs.Sharada Prasad, the deponent herein stepped in and took steps to file the Return of Income for all the aforesaid three Assessment Years.

6. The reason stated for the delay in filing the Return of Income was that

the Chartered Accountant who was appointed by the said company left the Company after the Managing Director, Mr.Saiprasad Girish passed away on 01.10.2010 without handing over the access key of the computer. It is stated that as soon as the data was accessed and retrieved, Return of Income were prepared and filed for the respective Assessment years on 29.08.2013 and 24.09.2013 as detailed herein under:-

A.Y.	Due date of filing of return	Date of filing of return	Period of delay	Amount of deduction claimed u/s 10A of the Act
2010-11	15.10.2010	31.03.2012	1 Yr. 5 months	Rs.2,56,58,415/-
2011-12	30.09.2011	29.08.2013	1 Yr. 11 months	Rs.2,61,94,450/-
2012-13	30.09.2012	24.09.2013	1 Yr.	Rs.3,34,85,838/-
Total				**Rs.8,53,38,703/-**

7. The case of the petitioner is that since the Return of Income could not be filed on time and before the Assessment Orders were passed which were appealed before the Appellate Commissioner and later before Income Tax Appellate Tribunal and presently, the petitioner is in appeal before the Division Bench in TCA No.189 and 191 of 2023, said to be which are still pending.

8. It is submitted by the learned counsel for the petitioner that the delay in filing the Return of Income is only on account of unfortunate circumstances narrated above and for no other reasons. That apart, it is submitted that for none

of the other Assessment Years, there is any delay in filing the Return of Income.

9. It is further submitted that in view of the rejection of the application filed for condonation of delay in filing the Return of Income, the rights vested with the petitioner under Section 10(A) of the Income Tax Act, 1961 for the software company have been denied to the petitioner. It is also submitted that if the delay is condoned, the benefit of Section 10(A) would be available to the petitioner.

10. Per contra, the learned Senior Standing Counsel for the respondent would submit that the audit report was prepared very much earlier before the due date of filing the Return of Income and that there was negligence on the part of the petitioner company in filing the Return of Income. It is therefore, submitted that the impugned order does not warrant any interference.

11. That apart, it is submitted that the Chartered Accountant referred to the Affidavit filed in support of the writ petition was none other than the brother of deponent Srimati Sharada Prasad herself, which is also stated in Paragraph no.13 of the Counter Affidavit, which reads as under:-

> “13. With regard to Grounds (c) it is submitted that the petitioner Srimati Sharadha Prasad is the Director of the Company 21.07.2006 and thereafter the Managing Director of the Company from 01.10.2010. She has

completed one year as the managing director before the due date for filing the return of income for Assessment Year 2011-12 and completed two years as Managing Directors before the due date for filing the return of income for the AY 2012-13."

12. It is further submitted that the petitioner has not filed any document to justify condone the delay in filing the Return of Income before the respondent. It is further submitted that these applications were filed only on 01.07.2015, after the petitioner suffered an adverse Assessment Order dated 27.01.2015 under Section 143(3) for the Assessment Year 2011-12 and after the intimation was issued on 30.03.2015 under Section 143(1) for the Assessment Year 2012-13. Therefore, it is submitted that the impugned order is well reasoned and does not warrant any interference and prayed for dismissal of the present writ petition.

13. At this juncture, the learned counsel for the petitioner submitted that the deponent has also been diagnosed with serious illness and has produced the copy of the medical report indicating that the deponent has diagnosed with breast Carcinoma, Grade I ER(80%), PR(40%)- Positive; HER2NEU-Positive and is undergoing 1st Cycle TCH chemotherapy.

14. Having considered the submissions made by the learned counsel for

the petitioner and taking note of the oral facts and circumstances recorded above and taking note of the subsequent events viz., ill health of the deponent, who was the other Director of the petitioner company and stepped after the death of her husband. I am of the view that it was a fit case for condoning the delay in filing the Return of Income for the aforesaid Assessment Years. Therefore, delay in filing Return of Income ought to have been condoned.

15. It is to be noted that no assessee gain by not filing Return of Income in time except where intention is to evade tax. The delay has occurred in view of the tragedy suffered by the deponent/Director of the petitioner company due to death of Mr.Saiprasad Girish on 01.10.2010. Therefore the delay deserved to be condoned.

16. Considering the same, the impugned orders are quashed and the delay in filing the Return of Income for the Assessment Years 2011-2012 and 2012-2013 are condoned with consequential direction to the respondent/Authority concerned to re-do the assessment for the aforesaid Assessment Years and decide whether the petitioner is otherwise eligible for the benefits as if the Return of Income had been filed on time for the respective Assessment Years.

17. These writ petitions are allowed with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

10-02-2026

Jd
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To
1. The Under secretary (ITA-I)
Central Board of Direct Taxes,
North Block, New Delhi.

2. The Principal Chief Commissioner of Income Tax,
Income Tax Department,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

3. The Principal Commissioner of Income Tax
Chennai-4,
Income Tax Department,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

4. The Deputy Commissioner of Income Tax
Circle 1, LTU Chennai,
Income Tax Department,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

C.SARAVANAN J.
jd

WP Nos.2842 & 2849 of 2023

10.02.2026