IN THE HIGH Court OF JUDICATURE AT MADRAS

DATED: 07-04-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 7923 of 2026
AND
WMP Nos. 8591 & 8593 of 2026

K1444 Kavundichipalayam Primary
Agricultural Co-op Credit Society Rep. by its
authorised representative Kavundchipalayam PO,
Perundurai TK, Erode 638112
PAN- AABAK6366P

..Petitioner(s)

Vs

1. Chief Commissioner of Income Tax
   REAC, Coimbatore 641 018
2. Assessment Unit
   National Faceless Assessment Centre, New
   Delhi

..Respondent(s)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st Respondent in DIN and Order No ITBA/COM/F/17/2024-25/1071393643 (1) dated 20.12.2024 rejecting condonation delay for filing u/s 119(2)(b) for the AY 2018-19 and quash the same and further direct the 1st Respondent to accept the return filed in response to notice u/s 148 as valid return u/s 139(1) of the Income Tax Act, 1961 for the AY 2018-19.

For Petitioner(s): Ms.G Vardini Karthik

For Respondent(s): Ms.M.Sheela, Senior Standing Counsel

ORDER

Ms.M.Sheela, learned Senior Standing Counsel, takes notice for the Respondents.

2. This Writ Petition is being disposed of at the time of admission with the consent of the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondents.

3. The Petitioner is a Primary Agricultural Cooperative Society before this Court against the impugned order dated 20.12.2024 whereby the Petitioner's application for condoning the delay in filing the Return of income vide application dated 20.12.2023 has been rejected for the Assessment Year 2018-2019.

4. The facts on record reveal that the last date of filing the Return of income under Section 39(1) expired on 31.10.2018 and on 31.12.2018 under Section 139(4) of the Income tax Act, 1961.

5. Since the Petitioner had failed to file the return of income, notice was also issued under Section 148 on 07.04.2022 under the New Regime. This notice has also ultimately culminated in an Assessment Order under Section 147 on 27.02.2024 which was unsuccessfully challenged by the Petitioner before the

CIT (Appeal) who by order dated 20.12.2024 rejected the same, against which, the Petitioner has filed an Appeal before the Income Tax Appellate Tribunal on 25.02.2026 in ITA No.1058/2026. The said Appeal is said to be pending .

6. The Respondent has rejected the application filed for condoning the delay in filing the Return of income by the due date to entail the benefit of deductions under Section 80-P and the benefit of Section 11 of the Income Tax Act,1961.

7. The reasons stated in the impugned order reads as under:-

" 7. In response, the assessee vide its reply dated 04-12-2024 has stated that although audit was completed in time, the audit certificate was received by them on 12-11-2018. In this regard, the assessee has submitted a letter from the "Assistant Director of Co-operative Audit, Erode" dated 16-05-2022. In order to verify the veracity of the aforesaid letter, an E-Mail dated 20-12-2023 was sent to the E-Mail Id addoca.er@tn.gov.in. However, no response in this regard was received and the veracity of the letter could not be ascertained. Therefore, even though the audit was completed before the due date for filing of return of income U/s 139(1) of the Act for the said A.Y, the assessee failed to file the return of income without adducing any reasons for the same with appropriated documentary evidence. Hence, such non filing of return of income U/s 139(1) is clearly attributable to the assessee.

8. As such on examining the assessee's said application, it also CANNOT therefore …..(i) the delay in furnishing the return of income within the due date/extended due date under sub-section (1) of section 139 of the Act was caused due to circumstances beyond the control of the assesse with appropriate documentary evidence/s"…….

in terms of section 6(i) and quoted above of CBDT Circular No.13/2023 in F.No.173/21/2023-ITA-1 dated

26.07.2023.

9. Since the aforesaid condition of Para 6 of the said CBDT circular namely 6(i) is not satisfied for the said A.Y. considering the overall matrix of the facts of case as stated above and material available on record, the assessee's application u/s 119(2) (b) of the Act, seeking condonation of delay in filing the return for the Assessment Year 2018-19 is hereby rejected."

8. The Respondent have justified the impugned order stating that the Petitioner failed to respond to give any plausible explanation or documentary material to substantiate that the claim for condoning the delay on the ground of genuine hardship was available or the circumstances were beyond the control of the Petitioner and therefore, the Respondent was justified in passing the impugned order in conformity with the requirements of CBDT Circular No.13/2023 .

9. That apart, it is submitted that the Petitioner has an alternative remedy before the Board in terms of CBDT Circular No.11/2024 dated 01.10.2024. That apart, it is submitted that the Petitioner filed an Appeal before the Appellate Tribunal in ITA.No.1058/2026 pursuant to the order passed by the Assessing Officer and the Appellate Commissioner on 27.02.2024 and 20.12.2024 respectively.

10. I have considered the arguments advanced by learned counsel for the Petitioner and learned Senior Standing Counsel for the Respondents.

11. No doubt, the Respondent is governed by the requirements of CBDT Circular No.13/2023 dated 26.07.2023.

12. It is noticed that the Petitioner has filed his Return only on 19.11.2022 long after Section 148 notice was issued on 07.04.2022 prescribing the last date as 07.05.2022

13. As per the above Circular, delay can be condoned only where delay was due to the circumstances beyond the control of an Assessee together with appropriate documentary evidence. There is also no doubt that the Audit Report was ready as early as on 26.10.2018 which was received 12.11.2018 and therefore, Return ought to have been filed.

14. However, considering the fact that the Petitioner is a Primary Agricultural Cooperative Credit Society, the delay is required to be condoned as otherwise benefit of Section 80-P stands denied to a Primary agricultural Cooperative Credit Society which does not serve the cause of the society or its members who are dependent on it.

15. In any event, no Assessee gains by not deliberately filing the Return in time. The failure to file the return in time and is therefore at best is

procedural in the facts of the case. Therefore, the delay can be condoned following the decision of the Hon'ble Supreme Court in ***M/s.Unichem Laboratories Ltd., Vs. Rani Devi & Others*** and the decision of the Hon'ble Supreme Court in ***Commissioner of Sales Tax, U.P. Vs. M/s. Auriaya Chamber of Commerce, Allahabad, Procedure is a handmaid of justice, not the mistress of law.***

16. In view of the above, I am inclined to quash the impugned order and consequently, direct the Respondent to pass a fresh order of assessment in the light of the Return filed on 19.01.2022 .

17. Needless to state that Petitioner will be entitled to the deductions subject to Petitioner substantiating the same before the Assessment Order. The Petitioner may withdraw the Appeal pending before the Appellate Authority.

18. This Writ Petition is disposed of with the above observations. No costs. Connected Miscellaneous Petitions are closed.

07-04-2026

Neutral Citation: Yes/No
GV

To

1. Chief Commissioner of Income Tax
   REAC, Coimbatore 641 018
2. Assessment Unit
   National Faceless Assessment Centre, New Delhi

C.SARAVANAN J.

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