IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-02-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 31244 of 2024
and
WMP No. 33883 of 2024

Selvarasu Paramasivam

..Petitioner

Vs

1. The Commissioner of Income Tax (Appeals),
   Income Tax Department,
   National Faceless Appeal Centre (NFAC),
   New Delhi.

2. The Assistant Commissioner of Income Tax
   Income Tax Department,
   ACIT, Circle 1, Cuddalore.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st Respondent in its Impugned Order passed U/s 250 of the Income Tax Act, 1961, in DIN and Order No.ITBA/NFAC/S/250/2024-25/1068149447(1) dated 30.08.2024 passed by the 1st Respondent and quash the same, and further direct the 1st Respondent to admit the appeal for the A.Y 2017-18.

For Petitioner : Ms.Vardini Karthik
for Ms.R. Harishni

For Respondents: Mr.V.J.Arulraj,
Senior Standing Counsel

ORDER

In this writ petition, the petitioner is before this Court against the impugned order dated 30.08.2024 passed under Section 250 of the Income Tax Act, 1961 by the first respondent/Appellate Commissioner. By the said impugned order, petitioner's appeal against the assessment order dated 26.12.2019 passed for the Assessment Year 2017-2018 was rejected on the ground of limitation.

2. A reading of the records placed before this Court indicates that the petitioner filed the Return of Income on 26.10.2017 for the Assessment Year 2017-2018, wherein the petitioner declared taxable income from profession amounting to Rs.16,49,060/-.

3. It appears that during the course of demonetization, the petitioner deposited a sum of Rs.64,80,000/-. However, this amount was not included in the Return of Income filed by the petitioner on 26.10.2017 under Section 139(1) of the Income Tax Act, 1961 for the Assessment Year 2017-2018.

4. Subsequently, the petitioner was issued with a Show Cause Notice dated 22.11.2019 issued by the 2nd Respondent. In response to the said notice, the petitioner submitted a detailed reply on 28.11.2019, the contents of which have been reproduced in the Assessment Order.

5. The reply dated 28.11.2019 of the petitioner reads as follows:-

> *"The assessee is a registered contractor with M/s.NLC and in order to pay the salary to his staff on time, usually take unsecured loans from many people as hand loan and then deposits into bank to enable him to transfer the salary for his employees electronically. Once the payment is received these unsecured loans are settled and he is practicing this for just balancing his contract activities. Apart from he pledges his jewels and take loans to meet out his business related commitments in order to meet out in time. Also the assessee is an agriculturist and the income received from this category is also being deposited into the bank".*

6. Since the petitioner's aforesaid reply to the Show Cause Notice was considered inadequate, the second respondent completed the assessment culminating in the assessment order dated 26.12.2019 under Section 144 of the Income Tax Act, 1961.

7. The appeal against the assessment order dated 26.12.2019 ought to have been filed before the first respondent/Appellate Commissioner on or before 25.01.2020. However, the appeal was filed only on 24.09.2021 by the petitioner.

8. The reason given by the petitioner for not filing the appeal earlier within the period of limitation is that the petitioner is a semi-illiterate person and was unaware of the consequences of the assessment order passed by the second respondent on 26.12.2019.

9. As far as the dismissal of the appeal by the first respondent/ Appellate Commissioner vide impugned order dated 30.08.2024 is concerned, no fault can be found with the Respondent as the petitioner did not properly explain the delay in filing the appeal beyond the period of limitation viz., on 25.01.2020.

10. However, considering the fact that the petitioner had not given a proper reply to the Show Cause Notice dated 22.11.2019 that preceded the assessment order dated 26.12.2019, this Court is inclined to remit the case back to the second respondent, subject to the petitioner depositing a sum of Rs.15,00,000/- as security for such *do novo* adjudication within a period of three months from the date of receipt of a copy of this order, since an amount of Rs.64,80,000/- was not brought to tax and was not included in the Return of Income as taxable income.

11. In case the Petitioner complies with the above stipulation, the second respondent shall proceed to pass a final order on merits, subject to the petitioner filing a proper reply to the notice dated 28.11.2019 by treating the

assessment order dated 26.12.2019 as an addendum within a period of 30 days from the date of the receipt of a copy of this order.

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

24-02-2026

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

AV

To

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   National Faceless Appeal Centre (NFAC),
   New Delhi.

2. The Assistant Commissioner of Income Tax
   Income Tax Department,
   ACIT, Circle 1, Cuddalore.

C.SARAVANAN J.

AV

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