IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.35828 of 2023
and
W.M.P.Nos.35813 and 35815 of 2023

ECO Protection Engineers Private Limited,
PAN – AACCE2151P ... Petitioner

Vs.

1.Central Board of Direct Taxes,
Department of Revenue,
Ministry of Finance,
245A, North Block,
New Delhi – 110 011.

2.Central Processing Centre (CPC),
Income Tax Department,
Bangalore – 560 500.

3.Assessing Officer,
Corporation Ward 2(1),
Chennai – 600 034.

4.National Faceless Appeal Centre (NFAC),
C Block, 4th Floor, S.P.M. Civic Centre,
New Delhi – 110 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to quash the order under Section 119(2)(b) of the Income Tax Act, 1961 passed by the 1st Respondent dated 09.10.2023 in PAN AACCE2151P and direct the 4th Respondent (1st

Appellate Authority) to condone the delay in filing the Form 10CCB for the Assessment Year 2015-2016.

For Petitioner : Mrs.G.Vardini Karthick

For Respondents : Mr.B.Ramanakumar
Senior Standing Counsel

ORDER

The Petitioner is before this Court against the impugned Order dated 09.10.2023 passed by the 1st Respondent / Central Board of Direct Taxes under Section 119(2) of the Income Tax Act, 1961 for the Assessment Year 2015-2016.

2. By the impugned Order dated 09.10.2023, the application filed by the Petitioner on 26.12.2019 for condoning the delay in filing Form 10CCB for claiming deduction under Section 80IA of the Income Tax Act, 1961 for the Assessment Year 2015-2016 was rejected.

3. The reasons stated in the impugned Order for rejecting the application are reproduced below:-

> "6. In this context, an opportunity of being heard was provided to applicant to explain as to why his petition dated 26.12.2019 seeking condonation of delay in filing Income-tax return and Audit report in Form 10CCB for the AY 2015-2016, may not be rejected. The applicant was

> requested to comply within 07 days of receipt of the letter. But no response has been received from him within the stipulated time.
>
> 7. Therefore, it can be construed that applicant had nothing to say in the matter to establish its genuine hardship for delay in filing Income tax return and audit report in form 10CCB for the year under consideration.
>
> 8. In view of the facts and circumstances stated above, it is clear and evident that the applicant has not put forward any reasonable cause beyond its control which prevented it in filing its return of income and Audit report in Form 10CCB on the due date specified under Section 139(1) of the Act. The applicant has no valid reasons to justify consideration of condoning the delay. In view of the above discussion and careful consideration of the matter, the applicant's application seeking condonation of delay under Section 119(2) of the Act in filing Income-tax return and Audit report in Form 10CCB of the Act for A.Y. 2015-16 is hereby rejected."

4. The above reference to the opportunity of being heard is with reference to the Show Cause Notice dated 06.09.2023 to which the Petitioner has purportedly filed a reply on 27.09.2023. However, there are no records to substantiate that the Petitioner had indeed filed the same with the 1st Respondent / Central Board of Direct Taxes within such time.

5. The facts on record also reveal that the last date for filing the Return of Income for the Assessment Year 2015-2016 expired on 31.10.2015. There was a marginal delay of 6 days in filing the Return of Income by the petitioner and 1 year and 20 days delay in filing Form 10CCB for claiming

deduction under Section 80IA of the Income Tax Act, 1961 for the said Assessment Year.

6. In the application filed on 26.12.2019 (31.12.2019 as per the Petitioner), the Petitioner has stated that the Chartered Accountant had by oversight not filed the Audit Report and even though the same was made ready at an earlier point of time as is required under Section 80IA of the Income Tax Act, 1961.

7. Reference was made to the Letter dated 13.12.2019 issued by the Chartered Accountant, wherein it has been stated as under:-

> "6. The claim under Section 80IA was rightly claimed by the assessee in the return of income based on the computation and the Audit Report in form 10CCB. Hence, we would like to humbly submit that the Audit Report in form 10CCB was available at the time of filing of return of income. However, it was inadvertently and due to oversight, the same was not uploaded along with the return of income. Further, the subjected Assessment Year 2015-16 was the first year in which the regulation of filing audit report in form 10CCB in the online portal was introduced."

8. Learned Senior Standing Counsel for the Respondents on the other hand would submit that there is no excuse for the petitioner for not filing the Return of Income or Form 10CCB in time.

9. That apart, it is submitted by the learned Senior Standing Counsel for the respondents that the Petitioner had failed to respond to the Show Cause Notice dated 06.09.2023 that preceded the impugned order and thus, the impugned Order has been passed. Therefore, it is submitted that the impugned order does not warrant any interference.

10. Having considered the submissions made by the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondents and considering the facts, in the present case, that are as follows:-

(i) the Petitioner is engaged in restoring the environment;

(ii) the Chartered Accountant has accepted the mistake of failing to tile Form 10CCB to claim deduction under Section 80IA of the Act vide communication dated 13.12.2019 and considering the fact that;

(iii) substantive benefit of Section 80IA of the Income Tax Act, 1961 cannot be denied merely because there is a procedural irregularity in complying with the provisions of the Income Tax Act, 1961, the impugned Order is liable to be set aside with consequential relief to the Petitioner as the Income Tax Department is required to collect tax but not burden the genuine tax payers who are otherwise entitled to any exemption or deduction under the Act.

11. This Court in **M/s.Craftsman Automation Private Limited** Vs. **The Commissioner of Income Tax-II, Coimbatore and another** in W.P.No.3967 of 2009, under similar circumstances, has observed as under:-

> ***"28. The Assessing Officer is also duty-bound to extend substantive benefits which were available and arrive at just tax to be paid. Benefits which are otherwise available to an assessee cannot be denied on the ground of technical failure of an assessee is such assessee is legitimately entitled to such substantive benefit. In this connection, it may be apt to refer to the following quotation of the Hon'ble Supreme Court in the case of Commissioner of Sales Tax Vs. Auriya Chambers of Commerce (1986) 3 SCC 50, wherein the Hon'ble Court held that procedures are handmaids of justice and not mistress of law. In Unichem Laboratories Vs. Commissioner of Central Excise, (2002) 7 SCC 145, the Hon'ble Supreme Court held that it is no part of duty of an officer of the revenue to demand tax which are not due to it merely to augment more revenue. They must act fairly and justly.***
>
> *29. In this case, the 2nd respondent has not given to benefit while reassessing the income of the petitioner while passing order on 29.12.2008. It is precisely for dealing with situations like this, powers have been vested with superior officers like the respondent under Section 264 of the Income Tax Act, 1961.*

30. Though, orders have to be passed subject to provisions of the Act, the intention of the legislative is not whittle down or deny benefit which are legitimately available to an assessee.

31. Failure to file return within the period under Section 139 of the Income Tax Act, 1961 for the purpose of claiming benefit of deduction under Section 80 AAJJ of the Income Tax Act, 1961, in my view is a more procedural formality. In my view, denial of substantive benefit cannot be justified since the assessment itself was reopened by the 2nd respondent and the assessment already made on 29.12.2006 was put to jeopardy.

32. If an assessee is entitled to benefit, technical failure on the part of an assessee to claim the benefit in time, should not come in the grant of substantial benefit/benefits that was/were otherwise available under the Income Tax Act, 1961 but for such technical failure.

33. I am therefore of the view that the petitioner would be entitled to the benefit of Section 80JJAA of the Income Tax Act, 1961. The 1st respondent ought to have allowed the application filed by the petitioner under Section 264 of the Income Tax Act, 1961.

34. In the light of the discussion, I am of the view that the petitioner is entitled to partial relief at this stage. Accordingly, the impugned order is set aside by condoning the delay in filing the return. The 2nd respondent is therefore directed to pass appropriate orders on merits in accordance with law, ignoring the delay on the part of the petitioner in filing the returns

under Section 139(5) of the Income Tax Act and/or failure to furnish the report of an accountant.”

12. Accordingly, the impugned order is quashed and the case is remitted back to the 1st Respondent to pass a fresh order on merits. There shall be a direction to the Assessing Officer to either issue a fresh intimation under Section 143(1) of the Income Tax Act, 1961 in lieu of intimation dated 17.09.2016 or in the alternative to initiate proceedings under Section 148 of the Income Tax Act, 1961 after following due process of law.

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

06.01.2026

Neutral Citation : Yes / No

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<u>To</u>:

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C.SARAVANAN, J.

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