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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 610/2024 & CM APPL. 2706/2024

WIPRO ENTERPRISES PRIVATE LIMITED & ANR......Petitioners

Through: Mr. Tarun Gulati, Sr. Adv. with Ms. Archana Sahadeva and Mr. Harshit Bhoi, Advs.

versus

SECRETARY, DEPARTMENT OF SCIENTIFIC AND INDUSTRIAL RESEARCH & ANR. .....Respondents

Through: Mr. Vikrant Nilesh Goyal, Mr. Yash Basoya, Mr. Inderpreet Singh and Mr. Kunal Dixit, Advs.

Mr. Puneet Rai, SSC and Mr. Ashvini Kumar, JSC for Income Tax

**CORAM:**
**HON'BLE MR. JUSTICE DINESH MEHTA**
**HON'BLE MR. JUSTICE VINOD KUMAR**

**O R D E R**

% **08.04.2026**

1. The present writ petition has been preferred with the following prayers:-

> *"a) Issue a writ of certiorari or any other appropriate writ, order or direction setting aside/ quashing the Impugned Guidelines being Point 9 of the DSIR Guidelines, 2016 (as updated in July 2017), issued by Respondent No. 1, as being unconstitutional and ultra vires S. 35(2AB) of the Income Tax Act, 1961 and Rule 6 of the Income Tax Rules, and as such illegal;*
> *b) Issue a writ of certiorari or any other appropriate writ, order or direction setting aside/quashing the Impugned Rejection Letters dated July 17, 2023 and November 22, 2023 issued by Respondent no. 1, as being completely arbitrary, illegal and having been issued without application of mind;*
> *c) Issue a writ of certiorari or any other appropriate writ, order or direction condoning the delay, if any, in filing applications dated November 28, 2017, November 28, 2018 and November 28, 2019, filed for AY 2017-18, AY 2018-19*

*and AY 2019-20 respectively by Petitioner No. 1 & reinstate the applications.*

*d) Pending hearing and final disposal of this petition, the Hon'ble Court be pleased to direct Respondent No. 1 to process the Petitioner no. 1's Applications dated November 28, 2017, November 28, 2018 and November 28, 2019, filed for AY 2017-18, AY 2018-19 and AY 2019-20, in accordance with Law;"*

2. Mr. Tarun Gulati, learned Senior Counsel for the petitioner apprised the Court about the scheme of Section 35(2AB) of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*) and submitted that the assessee who has incurred expenditure on research and development is entitled to get additional weightage deduction of 200% for AY 2017-18 and 150% for AY 2018-19 and 2019-20 of the amount spent on research and development subject to the conditions prescribed therein.

3. He informed that the Central Government has framed the Guidelines for Approval in Form 3CM of In-House R&D Centers Recognized By DSIR And Submission Of Report In Form 3CL Under Section 35(2AB) of IT Act 1961 (*hereinafter referred to as 'guidelines'*) for companies having In-house research and development centre.

4. He submitted that according to the provisions of Section 35(2AB) of the Act of 1961 and the guidelines so framed by the Central Government, an assessee claiming weightage deduction is required to upload its audit report in prescribed Form no. 3CLA which should be followed by a report by the Secretary, DSIR in prescribed Form No. 3CL.

5. He submitted that though the petitioner has filed its return of income within the prescribed period allowed under Section 139 of the Act of 1961 read with Rule 6 of the Income Tax Rules, 1962 along with the audited report in Form no. 3CLA however, for the purpose of obtaining the report,

the petitioner was required to move an application before respondent no.1-Secretary, DSIR which for the period in question (i.e. Assessment Years (AYs) 2017-18, 2018-19 and 2019-20) was filed with slight delay.

6. While submitting that the delay was caused because of the fact that earlier the due date of filing income tax return was 31st of October for each year and in line with the said date, guidelines were framed providing the last date of furnishing application for issuance of report by the Department under Part A of Form No. 3CL to be 31st October for each year, but since the due date of filing of return was changed to 30th November for each year (by introducing amendment in the relevant laws) the petitioner omitted to apply the prescribed application by 31st October of relevant assessment year under a *bonafide* impression that it should be the last date, when the return under Section 139 of the Act of 1961 is required to be filed and that is why some delay was caused in filing application before respondent no.1.

7. Inviting Court's attention towards the table, which has been given in the memo of writ petition, he admitted that though there is some delay even if reckoned from 30th November of the relevant AYs but the said delay was bonafide which was caused because of the change in the date as stated earlier and also because the format of filing the said application which was earlier in the physical form and the same was converted later to an online application form. The details of due dates and corresponding date of filing is as under:

| Financial Year | Due date as per the amendment in Rule 6(7A)(c) | Due Date as per Impugned Guidelines | Date of Applications | Applications received by DSIR on | Purported delay as per Respondent No. 1 |
|---|---|---|---|---|---|

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|---|---|---|---|---|---|
| 2016-17 | 30.11.2017 | 31.10.2017 | 27.11.2017 | 29.12.2017 | 50 days |
| 2017-18 | 30.11.2018 | 31.10.2018 | 30.11.2018 | 19.12.2018 | 38 days |
| 2018-19 | 30.11.2019 | 31.10.2019 | 29.11.2019 | 10.12.2019 | 35 days |

8. He further submitted that may be because of the fact that the respondent no.1 has been condoning the delay, the officer of the company got slightly laid back and was not diligent in filing the application in time, but the respondent no.1 should have considered the request for issuing report.

9. He submitted that so far as petitioner's substantial right flowing from Section 35(2AB) of the Act of 1961 is concerned, that is not under any shadow of doubt and as a matter of fact, the respondent no.1 has turned down petitioner's request for sending the report only on the account of delay.

10. He argued that the respondent no.1, who is otherwise supposed to encourage research and development and expected to apply a lenient approach and ensure that report is sent to the Income Tax Department has non suited the petitioner on the technical ground of delay, which in any case is not substantial.

11. While accepting the fact that there is no provision of condonation of delay, learned senior counsel argued that the time prescribed in guidelines is in any case directory. He added that the same cannot be treated to be mandatory, as no consequence of failure to file application has been provided.

12. Learned counsel further submitted that the matter remained pending before the respondent no.1 for 5-6 years and during such period, he had been corresponding with the petitioner and eliciting information and documents.

And suddenly, after July 2023, he took a turn and rejected the petitioner's application (for issuance of report) vide orders dated 17.07.2023 and 22.11.2023.

13. He submitted that the impugned rejection letters whereby petitioner's application has been rejected on account of delay deserves to be set aside and prayed that respondent no.1 be directed to send the report so that the petitioner can avail the due benefit available to it under Section 35(2AB) of the Act of 1961.

14. Mr. Vikrant Goel, learned counsel for the respondent no.1, on the other hand argued that since the petitioner had filed the application in terms of the guidelines, it has to stick to or adhere to the timelines given therein.

15. He argued that the petitioner having filed the application belatedly has not given any plausible reason for condonation of delay and hence, the respondent no.1 was justified in rejecting the application.

16. He further submitted that respondent no.1 has been liberally condoning the delay up to a period of 30 days, maybe because the guidelines were not amended in tune with the provisions of Section 139 of the Act of 1961 inasmuch as the due date for filing return under Section 139 was altered to 30th November while the guidelines remained unattended.

17. He argued that there is no provision for condonation of delay and even if the delay is sought to be condoned, the same can be done only by the Central Board of Direct Taxes (CBDT) by exercising its power under Section 119 of the Act of 1961.

18. Heard learned counsel for the parties and perused the record.

19. There is no quarrel on the fact that there has been a delay in filing the application of considered in terms of the guidelines. There is also no dispute

about the fact that the delay, if reckoned from 30th November of the relevant AYs, does not exceed 30 days. The delay is thus not substantial.

20. While having a feeling that the assessee cannot afford to be lax in making statutory compliance being a professionally managed company and that it should have normally adhered to the timeline given by the Statute or the formulated guidelines but considering that the last date of filing return got amended to 30th November for each year while the guidelines were not amended and so also the fact that the application filed by the petitioner for prior years as well, suffered from delay but were gracefully condoned by respondent no.1, the petitioner could have well remained under the impression that its application would visit the same fact.

21. Be that as it may. We are of the view that respondent no.1 having kept the matter pending for more than 6 years and having issued queries and eliciting information/documents should have shown magnanimity and instead of rejecting the application should have adopted a justice oriented and objective approach. The timeline prescribed in the guidelines and even statute are provided so as to maintain a work discipline. Hence, unless a third-party takes a position and becomes entitled to some right, the respondent no.1 should consider the application on merit, as long as the delay is not inordinate.

22. The issuance of a report is an administrative act. Unlike judicial or quasi-judicial determinations, the timelines governing administrative functions should be taken with a soft heart. This distinction is reflected in the statutory framework. The absence of specified consequences or default provisions in case of delay clearly suggests that such timelines are directory rather than mandatory.

23. In a case, where crossing the timeline entails a right in favour of a third-party, then, at the instance of the person in whose favour such right has accrued, delay may be considered fatal. Otherwise, unless a consequence is provided, the delay should be sympathetically considered.

24. We are therefore persuaded to allow the writ petition and set aside the impugned rejection letters issued by the respondent no.1 on 17.07.2023 and 22.11.2023. All the three applications seeking condonation of delay filed for AYs 2017-18, 2018-19 and 2019-20 are allowed and delay in filing the application is condoned. The respondent no.1 is directed to consider petitioner's application in accordance with law and send report in accordance with law. The report be sent preferably within a period of three months from today.

25. We hereby make it clear that our adjudication is only in relation to condonation of delay and we have not commented upon either merit or otherwise of petitioner's rights.

26. Respondent no.1 shall be free to examine petitioner's entitlement and case in accordance with law.

27. The petition alongwith pending application(s) stands disposed of.

**DINESH MEHTA, J**

**VINOD KUMAR, J**

**APRIL 8, 2026/***cd*