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

% *Date of Decision : 13.11.2025*

\+ W.P.(C) 2579/2024 CM APPL. 10721/2024

NEERAJ GUGLANI .....Petitioner

Through: Ms Smriti Sahay and Ms Pragati Singh, Advs.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX-15 & ORS. .....Respondents

Through: Mr. Ruchir Bhatia SSC with Mr. Anant Mann JSC and Mr. Abhishek Anand, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

V. KAMESWAR RAO , J. (ORAL)

1. This petition lays a challenge to an order dated 15.12.2023, whereby the respondents have decided the application filed by the petitioner under Section 119(2)(b) of the Income Tax Act, 1961 (the Act), whereby the petitioner has sought condonation of delay in filing the return of income. The reasons for the delay beyond 31.12.2022, which was the last date of extended period of filing the ITR are spelt out in paragraphs 3, 4 and 5 of the application, (page 164) which we reproduce as under :

> *"3. After the MRI scans, the assessee was diagnosed with nerve compression in the spinal cord and secondary canal stenosis, for which the assessee was advised to undergo surgery for Cervical Ossification of the Posterior Longitudinal Ligament by the Doctors.*
> *The copies of the prescription and diagnosis of Doctors are attached herewith.*
> *4. Due to the severity of the ailment suffered by the assessee, the assessee missed the due date for filing the*

return of Income under Section 139(1).
5. Further, the assessee was under the bona fide impression that the last date of filing the return of income under Section 139(4) Is 31-03-2023. Therefore, the return of Income could not be filed upto the actual due date under section 139(4) I.e. 31-12-2022.

2. Vide the impugned order dated 15.12.2023, the Principal Commissioner of Income Tax rejected the application by stating in paragraph 4, (page 168) as under :

> *"4. The facts of the case, submissions of applicant is that, assessee was not able to file the ITR within due date as he was suffering from various medical issues. He further mentioned that he was under the bone fide impression that the last date of filing the return income under Section 139(4) is 31-03-2023. Hence, it is seen that there is ignorance ot the part of the assessee and it law cannot be held as genuine hardship in accordance with CBDT Circular 9/2025 and dated 09.06.2015. Thus, the application of the assessee is not maintainable under clause (b) of sub-section (2) of Section 119 of the Income Tax Act 1961."*

3. The submission of learned counsel for the petitioner is primarily by drawing our attention to the report of the MRI examination conducted for the lower back pain suffered by the petitioner, depicts knee jerks and also advice of surgery for cervical OPLL. According to her, the said examination was between the period 31.07.2022 till 31.12.2022 the period during which the petitioner was required to file the returns. She states grounds taken by the petitioner to enable petitioner to file the ITR within the time prescribed i.e. 31.12.2022 is bonafide and there is no reason for the respondents to reject the application filed by the petitioner on 03.02.2023 seeking condonation of delay. She submits, other than this ITR, all ITRs have been filed within time.

4. Mr. Ruchir Bhatia, SSC appearing for the respondents justifies the impugned order dated 15.12.2023 by stating that though the last date of filing the ITR was 31.07.2022, the date for filing of the belated ITR being 31.12.2022 and the petitioner having not filed the ITR for a period of more than five months (July & December), the request seeking condonation of delay was rightly rejected.

5. We are unable to convince ourselves with the reasons given by the respondents in rejecting the application. This we say because the petitioner has highlighted the medical reasons, which prevented him from filing the ITR timely. The medical condition do indicate seriousness, which required surgery for cervical OPLL. Presumption can surely be drawn that the medical condition has prevented the filing of ITR within time. The law in this regard is well settled. This court in a recent opinion in the case of "***VRG Electronics Pvt Ltd v Principal Commissioner of Income Tax Delhi 7" 2025 DHC 8064-08*** in paragraph 18 onwards, has stated as under :

> *"18. Having heard the learned counsel for the parties, and perused the record, the short issue which arises for consideration is whether the respondent is justified in rejecting the application filed by the petitioner herein seeking condonation of delay of sixty days in filing the ITR.*
> *19. It may be stated here that Section 119(2)(b) of the Act empowers the CBDT, if it considers it desirable or expedient to do so for avoiding genuine hardship in any case or class of cases by general or special order, authorize any income tax authority, not being a Joint Commissioner (Appeals) or a Commissioner (Appeals), to admit an application or claim for any exemption, deduction, refund or any other relief under the Act after the expiry of the period specified by or under the Act for making such application of claim and deal with the same on merits in accordance with law.*
> *20. The exercise of power by the authority is regulated by empowering the various officers on the basis of monetary effect.*

The Principal Commissioner of Income Tax ('PCIT') had considered the application filed by the assessee seeking condonation of delay in filing form 10-IC and ITR and has stated that mere reason of negligence on the part of the accountant cannot be accepted. Hence, the non-filing of the ITR does not seem to be genuine.

21. The conclusion of the PCIT is in the light of the provisions of the CBDT Circular No. 09/2015 dated 09.06.2015 to hold that there was no genuine hardship in filing the return of the income.

22. The Supreme Court in the case of B.M Malani (supra) on which reliance was placed by the learned counsel for the petitioner has interpreted the word 'hardship' and in paragraph 16 held that genuine means not fake or counterfeit, real not pretending. In paragraph 18, the Supreme Court held, the ingredients of genuine hardship must be determined keeping in view the dictionary meaning thereof, and the legal conspectus attending thereto. For the said purpose, another well known principle namely, a person cannot take advantage of his own wrong may also have to be borne in mind.

23. We may also refer to the judgment of the Madras High Court in the case of Seshammal (R) vs. ITO, (1999) 237 185 (Madras) wherein it held as under: "7. This is hardly the manner in which the State is expected to deal with the citizens, who in their anxiety to comply with all the requirements of the Act pay monies as advance tax to the State, even though the monies were not actually required to be paid by them and thereafter, seek refund of the monies so paid by mistake after the proceedings under the Act are dropped by the authorities concerned. The State is not entitled to plead the hypertechnical plea of limitation in such a situation to avoid return of the amounts. Section 119 of the Act vests ample power in the Board to render justice in such a situation. The Board has acted arbitrarily in rejecting the petitioner's request for refund."

24. We may also refer to the case of Sitaldas K.Motwani vs Director General Of Income Tax, 323 ITR 223 (Bombay), wherein the Bombay High Court held that the phrase 'genuine hardship' used in Section 119(2)(b)should have been construed liberally, even when the petitioner has applied with all the conditions mentioned in Circular dated 12.10.1993. Paragraphs 15 and 16 of the judgment is reproduced as under:

"15. The phrase "genuine hardship" used in section 119(2)(b)

should have been construed liberally even when the petitioner has complied with all the conditions mentioned in Circular dated 12-10-1993 The Legislature has conferred the power to condone delay to enable the authorities to do substantive justice to the parties by disposing of the matters on merit. The expression "genuine" has received a liberal meaning in view of the law laid down by the Apex Court referred to hereinabove and while considering this aspect, the authorities are expected to bare in mind that ordinarily the applicant, applying for condonation of delay does not stand to benefit by lodging its claim late Refining to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated As against this, when delay is condoned the highest that can happen is that a cause would be decided on merits after bearing the parties. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk. The approach of the authorities should be justice-oriented so as to advance cause of justice. If refund is legitimately due to the applicant, mere delay should not defeat the claim for refund. 16. Whether the refund claim is correct and genuine, the authority must satisfy itself that the applicant has a prima facie correct and genuine claim, does not mean that the authority should examine the merits of the refund claim closely and come to a conclusion that the applicant's claim is bound to succeed. This would amount to prejudging the case on merits. All that the authority has to see is that on the face of it the person applying for refund after condonation of delay has a case which needs consideration and which is not bound to fail by virtue of some apparent defect. At this stage, the authority is not expected to go deep into the niceties of law. While determining whether refund claim is correct and genuine, the relevant consideration is whether on the evidence led, it was possible to arrive at the conclusion in question and not whether that was the only conclusion which could be arrived at on that evidence."

25. In Ramesh Kumar Shokeen vs. Principal Commissioner of

Income Tax-22 & Ors., W.P.(C) 13112/2018, on which reliance has been placed by the learned counsel for the petitioner, this Court has observed as under: ""21. However, a bare reading of the impugned order would reflect that there is no element of any reasoning, rationale or discussion by the PCIT before arriving at the conclusion that the case of assessee does not fall under the ambit of genuine hardship.

22. At this juncture, it is fundamental to refer to the observations made by the Constitution Bench of Hon'ble Supreme Court in the decision of Mohinder Singh Gill v. Chief Election Commr. [(1978) 1 SCC 405], which are reproduced herein below:-

"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji [Commr. of Police, Bombay v. Gordhandas Bhanji, 1951 SCC 1088 : AIR 1952 SC 16] : "Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself." Orders are not like old wine becoming better as they grow older."

[Emphasis added]

23. Therefore, the reasons ascribed in the counter affidavit merit no consideration as the impugned order before us does not allude to any rationale before deciding the condonation of delay application filed under Section 119(2)(b) of the Act.

24. It is quintessential to understand that the PCIT while exercising the powers under Section 119(2)(b) of the Act acts like a quasi judicial body and is bestowed with the cardinal responsibility to pass a reasoned order. Thus, an order passed under Section 119(2)(b) of the Act which is devoid of any reasoning or rationale would be de hors the legislative mandate

prescribed under the beneficial scheme of Section 119 of the Act.
25. It is strikingly clear that the impugned order is passed in a pedantic manner without any application of mind as the order records no reasons before summarily rejecting the condonation of delay application.
26. Therefore, in light of the aforenoted discussion and judicial precedents analysed, we set aside the impugned order dated 28 March 2018 and remand the matter back to the desk of the concerned PCIT with a direction to consider the condonation of delay application filed by the assessee afresh, in accordance with the law and as per extant regulations.
27. In view of the aforesaid, the writ petition is allowed and disposed of accordingly, alongwith pending applications, if any." 26. The CBDT Circular No. 09/2015 highlights the fact that while considering the case under Section 119(2)(b), it is to be seen that the case is of genuine hardship on merits.
27. The PCIT who admittedly exercises powers under Section 119(2)(b) of the Act would amount to a quasi judicial body and is under obligation to pass a reasoned order.
28. We find, the respondents have not explained, why the reason given by the petitioner that the accountant had forgot to file the ITR cannot be accepted. In the absence of such a finding, the respondents cannot say that there is no reasonable cause for non-compliance by the assessee. In fact the fault on the part of the accountant surely reflects reasonable cause for noncompliance by the assessee.
29. The Gujarat High Court in the case of Gujarat Electric Co. Ltd. vs. CIT, 255 ITR 396, has held that the CBDT was not justified in rejecting the claim for refund on the ground that a case of genuine hardship was not made out by the petitioner and delay in claiming the relief was not satisfactorily explained, more particularly, when the returns could not be filed in time due to the ill health of the officer who was looking after the taxation matters of the petitioner. The relevant part of the judgment reads as under:

> *"6 . We have heard learned counsel for the parties and taken into consideration the documents forming part of the petition. We may state that the respondents have not filed any reply controverting the averments made in the petition. From the record of the case, it is evident that the principal officer of the petitioner-company was bed-*

ridden around June, 1991, as he was suffering from severe tuberculosis and the doctor had advised him to take complete bed rest for about three months. As per the averments made in the application dated October 1, 1999, the principal officer of the petitioner-company had taken treatment for tuberculosis which lasted for about seven to eight months. It is also clear from the averments made in the said application that around April, 1992, again the principal officer of the company had fallen sick and the doctor had diagnosed the disease to be typhoid and he was once again tied down to the bed. As there was no one to look after taxation matters of the company, the returns could not be filed in time in which refund was claimed. Section 119(2)(b) of the Act empowers the Board to authorise any Income Tax authority not being Commissioner (Appeals) to admit an application or claim for any exemption, deduction, refund or any other relief under the Act, after the expiry of the period specified by or under the Income Tax Act for making such application or claim and deal with the same on the merits in accordance with law. It is an admitted position that in exercise of power conferred by the above-referred to provision, the Board has issued circular dated October 12, 1993, enabling the Income Tax authority to condone delay caused in claiming refund. It is not the case of the respondents that four conditions mentioned in the said circular are not satisfied by the petitioner, but the application for refund is rejected only on the ground that the case of genuine hardship was not made out by the petitioner.....

7. ....we are of the opinion that the Board was not justified in rejecting the claim for refund on the ground that a case of genuine hardship was not made out by the petitioner and delay in claiming the relief was not satisfactorily explained, more particularly when the returns could not be filed in time due to the ill health of the officer who was looking after the taxation matters of the petitioner. In view of the provisions of Section 119(2)(b), the phrase "genuine hardship" should have been construed liberally and as the petitioner has satisfied all the conditions mentioned in circular dated

October 12, 1993, the claim for refund advanced by the petitioner ought to have been examined on the merits. We may state that learned counsel for the petitioner on instructions of the petitioner has stated at the bar that the petitioner would not claim interest on the refund amount payable to the petitioner. Having regard to the facts of the case, we are satisfied that the delay caused in filing the claim for refund was satisfactorily explained by the petitioner and, therefore, the claim for refund should not have been rejected by the Board on technical ground. Under the circumstances, the impugned order is liable to be set aside, but the direction sought against respondent No. 1 to give amount of refund as prayed for in para. 7(B) of the petition cannot be granted because the claim for refund is not examined by respondent No. 1 on the merits."

30. *We may also refer to the judgment of the Supreme Court in Rafiq and Ors vs. Munshi Lal and Ors, Civil Appeal No. 14105/1981, wherein it was observed as under:*

"3 . The disturbing feature of the case is that under our present adversary legal system where the parties generally appear through their advocates, the obligation of the parties is to select his advocate, brief him, pay the fees demanded by him and then trust the learned advocate to do the rest of the things. The party may be a villager or may belong to a rural area and may have no knowledge of the court's procedure. After engaging a lawyer, the party may remain supremely confident that the lawyer will look after his interest. At the time of the hearing of the appeal, the personal appearance of the party is not only not required but hardly useful. Therefore, the party having done everything in his power to effectively participate in the proceedings can rest assured that he has neither to go to the High Court to inquire as to what is happening in the High Court with regard to his appeal nor is he to act as a watchdog of the advocate that the latter appears in the matter when it is listed. It is no part of his job… The problem that agitates us is whether it is proper that the party should suffer for the inaction, deliberate omission, or misdemeanour of his agent. The answer obviously is in

the negative. Maybe that the learned advocate absented himself deliberately or intentionally. We have no material for ascertaining that aspect of the matter. We say nothing more on that aspect of the matter. However, we cannot be a party to an innocent party suffering injustice merely because his chosen advocate defaulted. Therefore, we allow this appeal, set aside the order of the High Court both dismissing the appeal and refusing to recall that order." In the above case, the Supreme Court was dealing with an issue where the absence of an Advocate engaged by a party during final arguments lead to the matter being decided against the said party. A parallel can be drawn from the above mentioned judgment that a party should not suffer at the fault of the Charted Accountant in this case.

31. Further, the stand of the petitioner that after the receipt of the email from the respondent regarding the non-filing of the ITR, Form 10-IC, and the ITR were promptly filed on 29.12.2022 and 30.12.2022 is appealing. This would substantiate the explanation for filing Form 10-IC and ITR beyond time. At this stage we may highlight the contents of the application dated 14.02.2024 of the Accountant wherein it is stated as under: "It is submitted that the assessee company was not aware about compliances of the income tax act. The assessee company is completely dependent on the accountant. The accountant inadvertently forgot to file the income tax return and the Form 10IC within the due date specified in the Act. Thereafter, it came to the knowledge of the assessee company regarding nonfiling if ITR and Form 10IC after being received the general email from the income tax department for non-filing of the income tax return which goes to all the assesses. Therefore, the income tax return and the Form 10IC were filed belatedly."

32. Insofar as the judgment relied upon by the learned counsel for the respondent in the case of Lava International Limited vs. Central Board of Direct Taxes- [2024] 163 taxmann.com 148 (Delhi) is concerned, the said judgment is not applicable to the facts of this case. This we say so because, though the case of the petitioner therein was that the filing of returns in respect of the financial year was impacted by the outbreak of the pandemic, the Court noted that the time for filing such returns was extended up to 15.02.2021 and the petitioner despite signing the return on

31.07.2020 had ultimately filed the same on 30.03.2021. It is also noted that the recital of facts which appear under paragraph 7(iii) clearly demolishes the assertion of financial constraints that may have befallen the assessee. In the case in hand, the return was filed with a delay of sixty days only and it is not a case where the return was signed much in advance, unlike the case of Lava International Limited (supra). In any case, we have already held that the impugned order passed by the respondents is without considering the averments made by the petitioner in the application that non-filing of ITA was because of the mistake of the Accountant, and to that extent, it is an unreasoned order.

33. Accordingly, we set aside the impugned order dated 21.06.2024 and remand the matter back to the concerned PCIT for a de novo consideration to decide the application, keeping in view our observations made above. 34. The petition is disposed of.

35. Accordingly, the pending application is dismissed as infructuous."

6. That apart the delay being of 33 days and the reasons being bonafide, the PCIT should have condoned the delay. The impugned order dated 15.12.2023 is liable to be set aside. We order so and remand the matter to the PCIT to pass a fresh order keeping in view the reasons given by the petitioner in the application filed by the petitioner on 03.02.2023 and also keeping in view the law, as noted above and pass an order within a period of 8 weeks from the date of receipt of copy of this order. On passing of the said order, the parties shall proceed in accordance with law.

7. The petition is disposed of.

V. KAMESWAR RAO, J

VINOD KUMAR, J

NOVEMBER 13, 2025
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