



WEB COPY



W.P.No.26716 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.09.2024

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**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.26716 of 2024 &**  
**W.M.P.Nos.29225 & 29227 of 2024**

M/s.Arulmigu Aruthra Kapaleeswarar Temple,  
Represented by Executive Officer,  
Mrs.Jeyalatha  
Eswaran Kovil Street,  
Erode, Tamil Nadu - 638 001.

... Petitioner

Vs.

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

2.The Income Tax Officer,  
Ward 1(1), Erode,  
Flat No.R2, Nallappa Street,  
Periyar Nagar, Erode, Tamil Nadu - 638 001.

3.The Assessment Unit,  
Income Tax Department,  
New Delhi.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to quash the impugned order passed by the first respondent under Section 250 of the Income Tax Act, 1961 in DIN:ITBA/NFAC/S/250/2024-25/1067398735(1) dated 07.08.2024 and consequential recovery notice issued by the second respondent in DIN & Letter No.ITA/RCV/F/17/2024-25/1067405736(1), dated 07.08.2024 and further direct the first respondent to pass fresh orders as per the law.

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For Petitioner : Mr.V.Anandhamoorthy

For Respondents : Dr.B.Ramaswamy  
Senior Standing Counsel

**ORDER**

The petitioner has filed the present writ petition seeking to quash the order passed by the first respondent dated 07.08.2024, as well as the consequential recovery notice issued by the second respondent dated 07.08.2024; and for a direction to the first respondent to pass fresh orders in accordance with the law.

2. The learned counsel for the petitioner submits that the petitioner, a religious institution listed under Section 46(iii) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, did not file any income tax return on the grounds that its income is exempted under Section 10(23BBA) of the Income Tax Act, 1961. The petitioner's income, derived from proper endowments and voluntary contributions, was properly deposited into bank accounts and utilized for the temple's welfare activities. During the demonetization period from 09.11.2016 to 31.12.2016, the petitioner made certain cash deposits, which arose from contributions deposited by devotees in the Hundi. The second respondent issued a notice under Section 148 of



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the Income Tax Act on 05.04.2022. Being unfamiliar with income tax proceedings, the petitioner filed their return belatedly on 26.01.2023.

Subsequently, the files were transferred to the third respondent, who completed the reassessment and made an addition of Rs.1,34,07,629/- under Section 147 read with Section 144 read with Section 144B of the Act on 16.02.2024. He would further submit that the petitioner then approached the Statutory Appeal before the first respondent; however, the appeal was dismissed solely on the ground that there is no provision under the Act to condone the delay. Therefore, the learned counsel seeks appropriate orders in this writ petition.

3. On the basis of the above submissions, this Court has heard the learned Senior Standing Counsel appearing for the respondents.

4.It is noted that the petitioner's appeal against the impugned order was dismissed on 07.08.2024 solely on the ground that the Act does not provide for the consideration of a delay petition. According to the petitioner, the delay was due to their belief in their exemption under Section 10(23BBA) of the Income Tax Act and their unfamiliarity with income tax proceedings, which resulted in the belated approach to filing the appeal. The reason



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provided for non filing of the appeal within the prescribed time, in the considered opinion of this Court, appears to be genuine.

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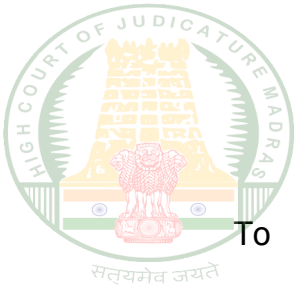
5. Considering the facts and circumstances of the case, and having regard to the submissions made by the learned counsel on both sides, this Court, in the interest of justice, is inclined to condone the delay in filing the appeal on the condition that the petitioner shall pay a sum of Rs.1,000/- (Rupees One Thousand only) to the Madras High Court Advocate Clerks Welfare Association, Madras High Court, Chennai, within one week from the date of receipt of a copy of this order. Upon receipt of such payment, the Commissioner of Income Tax (Appeals)/Appellate Authority is directed to take up the appeal without raising any issues related to limitation and to dispose of it on merits and in accordance with the law, after affording the petitioner a reasonable opportunity to be heard.

6. The writ petition is disposed of on the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

**12.09.2024**

Speaking/Non-speaking order  
Index : Yes / No  
Neutral Citation : Yes / No  
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**KRISHNAN RAMASAMY.J.,**

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