



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 17939 OF 2024

Jyotsna M. Mehta ... Petitioner

Versus

Principal Commissioner of Income-tax-19 & Ors. ... Respondents

WRIT PETITION (L) NO. 17999 OF 2024

Niti Ravi Mehta ... Petitioner

Versus

Principal Commissioner of Income-tax-19 & Ors. ... Respondents

WRIT PETITION (L) NO. 18000 OF 2024

Ravi Madhusudan Mehta ... Petitioner

Versus

Principal Commissioner of Income-tax-19 & Ors. ... Respondents

Mr. Nishit Gadhi a/w. Ms. Aadnya Bhandari for the petitioner.
Ms. Mamta Omle a/w. Mr. Pritish Chatterjee for the respondents.

CORAM: G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.
Date : 4 September, 2024

Oral Judgment (Per G. S. Kulkarni, J.)

1. The reliefs as prayed for in these petitions are similar, which assail orders passed by Principal Commissioner of Income-tax, Mumbai (PCIT), whereby the application filed by the petitioners under section 119(2)(b) of

the Income-tax Act, 1961 praying for condonation of delay in filing the return of income has been rejected.

2. The petitioners in all these petitions are members of one family. Their accounts as also all issues in relation to their income-tax returns were handled by a Chartered Accountant, who could not take timely steps on account of ill health of his spouse. For such reason, the returns of the petitioners could not be filed within the stipulated time.

3. The petitioners have contended that they were fully dependent on the Chartered Accountant in all respects from the finalization of the accounts as also in taking steps to file their respective returns. They contend that there was a genuine reason on the delay caused to the petitioners to file returns, as the Chartered Accountant was in a situation of distress due to the ill-health of his wife, keeping him away from the petitioners professional work.

4. In such circumstances, the petitioners approached the respondents by an application filed under section 119(2)(b) of the I.T. Act Act praying for condonation of delay in filing of their returns; setting out such reason, which according to the petitioner, was bonafide and a legitimate cause, requiring the delay to be condoned in filing of the petitioners' returns. The petitioners also submitted all the medical papers in support of their contentions that the

case as made for condonation of delay was bonafide/genuine as reflected from the medical papers. However, it appears from the impugned order as passed by PCIT that he disbelieved the petitioners' case when he observes that the reasons are not genuine reasons preventing the petitioners from filing Income-tax returns. In recording such observations, the PCIT has not recorded any reasons as to why the documents as submitted by the petitioner were disbelieved by him, and/or the case of the petitioners was not genuine. Also there is no contrary material on record, that the petitioner's case on such ground was required to be rejected.

5. We have heard learned counsel for the parties. We have also perused the record.

6. In our opinion, the approach of PCIT appears to be quite mechanical, who ought to have been more sensitive to the cause which was brought before him when the petitioner prayed for condonation of delay. In such context, we may observe that it can never be that technicalities and rigidity of rules of law would not recognize genuine human problems of such nature, which may prevent a person from achieving such compliances. It is to cater to such situations the legislature has made a provision conferring a power to condone delay. These are all human issues and which may prevent

the assessee who is otherwise diligent in filing returns, within the prescribed time. We may also observe that the PCIT is not consistent in the reasons when the cause which the petitioners has urged in their application for condonation of delay was common.

7. We may observe that it would have been quite different if there were reasons available on record of the PCIT that the case on delay in filing returns as urged by the petitioners was false, and/or totally unacceptable. It needs no elaboration that in matters of maintaining accounts and filing of returns, the assesseees are most likely to depend on the professional services of their Chartered Accountants. Once a Chartered Accountant is engaged and there is a genuine dependence on his services, such as in the present case, whose personal difficulties had caused a delay in filing of the petitioners returns, was certainly a cause beyond the control of the petitioners / assesseees. In these circumstances, the assessee, being at no fault, should have been the primary consideration of the PCIT. It also cannot be overlooked that any professional, for reasons which are not within the confines of human control, by sheer necessity of the situation can be kept away from the professional work and despite his best efforts, it may not be possible for him to attend the same. The reasons can be manifold like illness either of himself

or his family members, as a result of which he was unable to timely discharge his professional obligation. There could also be a likelihood that for such reasons, of impossibility of any services being provided/performed for his clients when tested on acceptable materials. Such human factors necessarily require a due consideration when it comes to compliances of the time limits even under the Income Tax Act. The situation in hand is akin to what a Court would consider in legal proceedings before it, in condoning delay in filing of proceedings. In dealing with such situations, the Courts would not discard an empathetic /humane view of the matter in condoning the delay in filing legal proceedings, when law confers powers to condone the delay in the litigant pursuing Court proceedings. This of course on testing the bonafides of such plea as may be urged. In our opinion, such principles which are quite paramount and jurisprudentially accepted are certainly applicable, when the assessee seeks condonation of delay in filing income tax returns, so as to remove the prejudice being caused to him, so as to regularise his returns. In fact, in this situation, to not permit an assessee to file his returns, is quite counter productive to the very object and purpose, the tax laws intend to achieve. In this view of the matter, we have no manner of doubt that the delay which is sufficiently explained in the present case would be required to be condoned.

8. Resultantly, the impugned order is quashed and set aside. The respondents are directed to permit the petitioners to file returns with penalty, fees and interest, if any, within a period of two weeks from today. All contentions of the parties on the merits of the returns are expressly kept open.

9. Disposed of in the above terms. No costs.

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI, J.)