APHC010533622024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3529]**
(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION Nos.27631, 27659, 27682 & 27689 of 2024

WRIT PETITION NO: 27631/2024

Between:

1. YADIKI PRIMARY AGRICULTURAL AND CREDIT SOCIETY, REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER YADIKI VILLAGE PA. YADIKI MANDAL ANANTAPUR 515408, ANDHRA PRADES

...PETITIONER

AND

1. CHIEF COMMISSIONER OF INCOME TAX, IT TOWER, AC Guards, Masab Tarik, Hyderabad, Andhra Pradesh, 500004

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased tomay be pleased to issue a writ, direction or order in the nature of writ of Certiorarified to call for the records in the file of the Respondent and quash the impugned order passed by the Respondent under section 119(2)(b) of the Income Tax Act, 1961 (hereinafter referred Mandamus to as Act) in DIN and Order No. ITBA/COM/F/17/2023-24/1058147947(1)dated 22/11/2023 in PAN- AAATY3013H for the Assessment Year 2019-20 and direct the Respondent to condone the delay in filing return of income u/s 139(1) of the Income Tax Act, 1961 (ACT) and pass such

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased be pleased to dispense with the production of the original of the Impugned Order under section 119(2)(b) of the Income Tax Act, 1961 (hereinafter referred to as "Act") in DIN and Order No.ITBA/COM/F/17/2023-24/1058147947(1) dated 22/11/2023in PAN- AAATY3013H for the Assessment Year (AY) 2019-20 and pass such

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to Grant leave to the Respondents to file the counter affidavit in W.P. No. 27631 of 2024 by condoning the delay in the interest of justice and also direct that the said counter affidavit be taken on record and or Pass

Counsel for the Petitioner:

1. UTTARA LEGAL

Counsel for the Respondent:

1. Y N VIVEKANANDA

The Court made the following Common Order:

(per Hon'ble Sri Justice R. Raghunandan Rao)

As the issues raised in all these Writ Petitions, relate to the meaning of 'genuine difficulties', for which delay in filing returns etc., can be condoned, they are being disposed of, by way of this Common Order.

2. The petitioners in all these Writ Petitions are Primary Agricultural & Credit Societies, situated in Anantapur District. The petitioners were required, to file their returns, in relation to their income, for the assessment year, 2019-2020. The last date for filing of such returns was 31.10.2019. However, the petitioners did not choose to file their returns within the said stipulated time. The Income Tax Authorities, after coming to know about the non-filing of such returns, issued Notices under Section 148 of the Income Tax Act, 1961 *(herein referred to as 'the Act')*. After receipt of these notices, the petitioners had filed their returns.

3. The petitioners, after filing their returns, also sought condonation of delay in the filing of these returns, under Section 119(2)(b) of the Act. These applications were rejected by the Chief Commissioner of Income Tax.

4. The details of the notices, which were issued, the dates on which the returns were filed, the dates on which applications to condone delay and the dates on which these applications were dismissed, are set out in the table below:

Writ Petition No.	Name of the petitioner	Date of notice issued under Section 148 of the Act	Date of filing of returns of the income	Date on which the application is filed for condonation of delay	Date of order of rejection
27631 of 2024	M/s. Yadiki Primary Agricultural Co-operative Society	28.03.2023	27.04.2023	17.04.2023	22.11.2023
27659 of 2024	M/s. Muddigubba Primary Agricultural Co-operative Society	29.03.2023	27.04.2023	15.04.2023	22.11.2023
27682 of 2024	M/s.Peddakadapalavandlapalli Primary Agricultural Co-operative Society	29.03.2023	27.04.2023	15.04.2023	22.11.2023
27689 of 2024	M/s. Gandlapenta Primary Agricultural Co-operative Society	28.03.2023	25.04.2023	15.04.2023	22.11.2023

5. Before going into the facts and merits of these cases, certain background facts and provisions of Law are required to be noticed.

6. The Primary Agricultural Cooperative Societies, had earlier been exempted from filing their returns of income, by virtue of Section 80AC of the Act. This provision was amended with effect from 01.04.2018, by the Finance Act, 2018. By virtue of this amendment, these Cooperative Societies were required to file their returns, within the dates, applicable to other persons, falling in the same category. This means that the Societies were required to file their returns, for the assessment year, 2019-2020, on or before 31.10.2019.

7. Another provision that would also need to be considered is Section 80P of the Act, which granted an exemption to the Primary Agricultural Cooperative Societies, in terms of certain deductions of income being allowed, for these Cooperative Societies. However, it may also be noticed that, such deductions would be allowed only upon returns being filed by the Societies.

8. In the present cases, the petitioners having failed to file their returns within the stipulated time, sought condonation of delay in the filing of such returns, by approaching the Chief Commissioner of Income Tax, under Section 119(2)(b) of the Act. The said provision reads as follows:

> *"(b) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorize to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law."*

9. The petitioners, in their applications, had submitted that, they were Primary Agricultural Credit Societies, which were operating under harsh conditions with limited staff who were not fully trained or knowledgeable about the applicability of the Income Tax act and the provisions thereunder. The petitioners had also stated that, the Competent Officers, who had been advising these Societies, in this regard, had also not made the Societies aware of their requirements. The petitioners contended that, on account of these genuine difficulties, the Petitioner - Societies were unable to file their returns within time. The Petitioners – Societies had also pointed out that they

were operating on thin margins, and on account of such margins, they were unable to engage the services of well-trained personnel.

10. The Chief Commissioner of Income Tax, however, rejected these applications for condonation of delay, on the ground that, the ground of ignorance of Law, cannot be a ground for condonation of delay. The Chief Commissioner, had also held that, internal difficulties of the Petitioners – Societies, cannot be a ground of genuine difficulty and that, the petitioners were required to comply with the Law and cannot claim any concession, in this regard.

11. Aggrieved by these orders of rejection, the petitioners have approached this Court, by way of the present set of Writ Petitions.

12. Heard Sri R. Sivaraman, learned counsel appearing for the petitioners, assisted by Sri K. S. Naveen, learned counsel representing M/s. Uttara Legal and Sri Y. N. Vivekananda, learned Standing Counsel for Income Tax appearing for the respondents.

13. The learned counsel for the petitioners, would contend that, the view of the Chief Commissioner of Income Tax, expressed in the orders, under challenge, is not correct, and the entire approach itself is not in line with the requirements of the provisions. The learned counsel would also draw the attention of this Court to proceedings bearing F.No. 173/21/2023-ITA-I, dated 26.07.2023, under which Circular No.13/2023, has been issued. The learned

counsel would also contend that, the said Circular, specifically refers to the difficulties faced by the Societies, in the filing of returns, for the assessment years, 2018-2019 onwards, and requiring the Authorities to consider applications for condonation of delay, in terms of the guidelines set out in the Circular. The learned counsel would also rely upon the judgment of the High Court of Bombay in the case of ***Pankaj Kailash Agarwal Vs. Assistant Commissioner of Income-tax*** [1], the judgments of the Hon'ble High Court of Madras in the cases of ***Precot Mills Ltd. Vs. Central Board of Direct Taxes***[2]; **Axe Bpo Services Private Limited Vs. Director (ITA-1), & Ors.**, in W.P.No.3425 of 2024, decided on 13.11.2024; **M/s. MRF Limited Vs. Central Board of Direct Taxes & another**, in W.P.No.11194 of 2024, dated 30.01.2025 and the judgment of the Hon'ble High Court of Karnataka in the case of ***H. S. Anantharamaiah Vs. Central Board of Direct Taxes*** [3], in support of his contentions.

14. Sri Y. N. Vivekananda, the learned Standing Counsel for Income Tax, appearing for the respondents, on the other hand, would support the view of the Orders of the Chief Commissioner of Income Tax. The learned Standing Counsel, would contend that, the Petitioner – Societies, cannot seek condonation of delay, on the ground of ignorance of Law or the requirement to file their returns within the time stipulated for all other tax payers. He would also contend that, permitting such condonation of delay, would also result in

[1] [2024] 161 taxmann.com 383 (Bombay)
[2] [2010] 8 taxmann.com 217 (Madras)
[3] [1993] 69 TAXMAN 291 (KAR.)

all other tax payers, seeking condonation of delay, on similar grounds, which would not be permissible. The learned Standing would also contend that, the alleged internal difficulties of the Petitioner – Societies, are only set out to evade the consequences of Law and not in case of any genuine difficulties. He would point out the fact that the audits of the Petitioners – Societies, have been completed much prior to the notices being issued by the Income Tax Department, calling upon to show cause why the action should not be taken, on account of the non-filing of the returns. The learned Standing Counsel would submit that, there are no merits in the present set of Writ Petition.

15. The provisions of the Act stipulate the period within which the returns have to be filed for each assessment year. The consequences for non-filing of the returns are also set out in the Act. Further, while setting out such consequences, the Act itself provides for relief to persons, who had not complied with the Law, within the stipulated time, under the Income Tax Act. This relief is granted by Section 119(2)(b) of the Act, which permits tax payers to seek relaxation of the requirements of Law, by approaching the appropriate Authorities.

16. Apart from this, the issuance of Circular No.13/2023 also requires to be considered, before considering the question of whether a case of genuine difficulty has been made out by the Petitioners – Societies.

17. Circular No.13/2023 has been issued, for a very specific reason. The said Circular itself states that, Section 80P of the Act, granting exemptions for

income in respect of Co-operative Societies, has been affected by the substitute of Section 80AC with effect from 01.04.2018. After noticing this fact, the Circular goes on to state various applications had been received, by the Central Board of Direct Taxes from Co-operative Societies, seeking condonation of delay in furnishing the returns of income, and had thereafter, issued guidelines, regarding the manner in which the delay in the filing of the returns, by such Societies can be condoned. This Circular is a recognition of the fact that, the Co-operative Societies, would face initial hiccups and difficulties in complying with the amended provisions of the Income Tax Act, requiring them to file their returns.

18. In view of the provisions of Section 119(2)(b) of the Act and Circular No.13 of 2023, it would have to be held that, a very liberal approach would have to be taken by the Authorities, in considering the applications for condonation of delay, filed by the Co-operative Societies, in relation to the delay in filing the returns.

19. Keeping in view all these facts and keeping in view the fact that, the petitioners are Primary Agricultural Co-operative Societies, serving the interests of farmers, this Court is of the view that the difficulties expressed by the petitioners, in terms of lack of manpower and also in terms of their lack of knowledge of the requirements of Law, should be considered as a genuine hardship, faced by these Petitioner - Societies.

20. This Court would also hasten to add that such difficulties only for the initial period, set out in the Circular itself, and cannot be treated as a general ground for the future.

21. In the circumstances, these Writ Petitions are allowed, setting aside the orders of rejection for condonation of delay, with a further direction to the Authorities to treat the returns as having been filed within time.

22. We are also informed that the Authorities have already passed assessment orders, in these cases and Appeals are pending, before the Appellate Authorities. In that view of the matter, it would be open to the petitioners to place these Orders, before the Appellate Authorities, so that the Appeals can be disposed of, by taking into account the returns filed by the petitioners.

There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

R. RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

Date:10.02.2026
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THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

AND

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION Nos.27631, 27659, 27682 & 27689 of 2024

(per Hon'ble Sri Justice R. Raghunandan Rao)

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