



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 18TH DAY OF DECEMBER 2023 / 27TH AGRAHAYANA, 1945

WP(C) NO. 39796 OF 2023

PETITIONER/S:

PUNNORATH MEETHAL SANKARAN
AGED 71 YEARS
PROPRIETOR FRESH PRODUCTS, V/39 AMBALAKADAVU,
CHERANELLOOR ERNAKULAM, PIN - 682034
BY ADVS.
R.JAIKRISHNA
NARAYANI HARIKRISHNAN
C.S.ARUN SHANKAR
ANISH P.
GANESAN M.
VIVEK BHAT D.

RESPONDENT/S:

- 1 THE INCOME TAX OFFICER
NON CORP WARD 1(1) OFFICE OF THE INCOME TAX OFFICER CR
BUILDING. IS PRESS ROAD KOCHI, PIN - 682018
- 2 PRINCIPAL COMMISSIONER OF INCOME TAX -1
OFFICE OF THE PRINCIPAL COMMISSIONER OF INCOME TAX -1
CR BUILDING. IS PRESS ROAD KOCHI, PIN - 682018
- 3 CENTRALIZED PROCESSING CENTER
REPRESENTED BY - DEPUTY COMMISSIONER OF INCOME TAX
INCOME TAX DEPARTMENT, POST BAG NO.2, ELECTRONIC CITY
P.O BANGALORE, PIN - 560500
- 4 PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX
OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER OF INCOME
TAX CR BUILDING. 2ND FLOOR, IS PRESS ROAD KOCHI, PIN -
682018
- 5 THE INCOME TAX OFFICER
NON CORP WARD 1(4) OFFICE OF THE INCOME TAX OFFICER CR
BUILDING. IS PRESS ROAD KOCHI, PIN - 682018

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT****Dated this the 18th day of December, 2023**

The present writ petition has been filed impugning Ext.P10 order passed by the 2nd respondent rejecting the application of the petition under Section 119(2)(b) of the Income Tax Act ('the Act' for short) for condoning the delay in filing the return of the petitioner's income for the assessment year 2017-2018.

2.Under the provisions of Section 119(2)(b) of the Act r/w circular No.9/2015 dated 9.06.2015, the jurisdiction to consider the application under Section 119(2)(b) of the Act in which the claim is not more than Ten Lakhs for any one assessment year, the Principal Chief Commissioner of the Income tax shall be vested with the powers of acceptance / rejection of such applications / claims.

3.In the present case, the claim of refund is more than Ten Lakhs, and therefore, the jurisdiction to consider the application of the petitioner under Section 119(2)(b) of the Act, is not vested with the Chief Commissioner of Income Tax. However, the Chief Commissioner of Income Tax-1, Kochi has



passed the order in Ext.P10, and thus, the order passed is without jurisdiction.

In view of the aforesaid fact, the writ petition is allowed, the impugned order in Ext.P10 is set aside and the matter is remitted back to the Principal Chief Commissioner, the 4th respondent to consider and pass order on Ext.P8 application of the petitioner, expeditiously, within a period of two months.

**Sd/-
DINESH KUMAR SINGH
JUDGE**

SJ



APPENDIX OF WP(C) 39796/2023

PETITIONER EXHIBITS

- Exhibit P1** A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DATED 2.2.2018
- Exhibit P2** A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DATED 15.5.2019
- Exhibit P3** A TRUE COPY OF THE REPLY FILED BY THE PETITIONER TO THE 1ST RESPONDENT DATED 3.6.2019
- Exhibit P4** A TRUE COPY OF THE RETURN FILED BY THE PETITIONER DATED 27.6.2019
- Exhibit P5** A TRUE COPY OF THE ACKNOWLEDGEMENT OF INCOME TAX RETURN ISSUED BY THE 3RD RESPONDENT DATED 27.6.2019
- Exhibit P6** A TRUE COPY OF THE COMMUNICATION ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER DATED 28.6.2019
- Exhibit P7** A TRUE COPY OF THE SCREENSHOT OF THE GRIEVANCE SUBMITTED BY THE PETITIONER IN THE ONLINE PORTAL DATED 13.10.2022
- Exhibit P8** A TRUE COPY OF THE APPLICATION FOR CONDONATION OF DELAY SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT DATED 14.12.2022
- Exhibit P9** A TRUE COPY OF THE CIRCULAR NO. 9/2015 ISSUED BY CENTRAL BOARD OF DIRECT TAXES DATED 9.6.2015
- Exhibit P10** A TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 7.9.2023