



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**



D.B. Civil Writ Petition No. 2554/2024

Suman Devi W/o Jitendra Kumar, Aged About 39 Years, Sonri Road, Ward No.6, Nohar, Hanumangarh- 335523, Rajasthan.

-----Petitioner

Versus

1. Income Tax Officer, Ward Nohar, Rajasthan.
2. Joint Commissioner Of Income Tax, Range1, Bikaner, Rajasthan.
3. Principal Commissioner Of Income Tax, Jodhpur I, Rajasthan.
4. Central Board Of Direct Taxes, Through Its Chairman, Ministry Of Finance, North Block, New Delhi.

-----Respondents

For Petitioner(s) : Mr. Vinay Kothari  
Mr. Ayush Goyal

For Respondent(s) : Mr. K.K. Bissa

**HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI  
HON'BLE MR. JUSTICE MUNNURI LAXMAN  
Order**

**16/04/2024**

1. The petitioner in this writ petition emerges the facts that the petitioner is the proprietor of the firm, who is engaged in trading of herbs and certain plants required for Ayurved. The firm was registered under the Central Goods and Service Tax, 2017. The only point raised is that the petitioner sought condonation of delay in filing the return of the assessment year 2021-22 which is within the purview of Section 119(2)(b) of the Income Tax Act 1961 (hereinafter referred to as 'The Act of 1961') whereby the delay of 15 days was sought to be condoned. The petitioner claimed that after the standard deductions, the total gross income was below



Rs.2,50,000/- and the petitioner had acquired a total TDS of Rs.77,220/- which was also reflected in Form 26AS.

2. Learned counsel for the petitioner has given ample reasons for the delay of 15 days in filing the return for the assessment year 2021-2022 as petitioner is a widow and is running a small business in a small town. Learned counsel for the petitioner also pointed out that the reason for the delay includes the crashing of the computer at the time of preparation of the accounts and then the same was required to be recomputed. He further submits that the respondents had ample power particularly under Section 119(2)(b) of the Act of 1961 and thus such a small delay in a peculiar matter ought to have been condoned.

3. The counsel for the respondents opposes on the ground that there is a time limit which needs to be followed and the same was not followed by the petitioner and thus, merely on the ground of sympathy the delay cannot be condoned.

4. The issue raised by the learned counsel for the petitioner before this court is trivial. This Court finds that the respondents have ample powers to condone the delay of the assessee, if sufficient reasons are found.

5. At this juncture, it is considered appropriate to reproduce the relevant portion of the Circular 9/2015 [F.No.312/22/2015-OT], Dated 09.06.2015 as hereunder: -

**"SECTION 119 OF THE INCOME-TAX ACT, 1961-  
INCOME-TAX AUTHORITIES - INSTRUCTIONS TO  
SUBORDINATE AUTHORITIES - CONDONATION OF  
DELAY IN FILING REFUND CLAIM AND CLAIM OF  
CARRY FORWARD LOSSES UNDER SECTION 119(2)(b)**

**CIRCULAR 9/2015 [F.NO.312/22/2015-OT], DATED 9-  
6-2015**



.....

5. The powers of acceptance/rejection of the application within the monetary limits delegated to the Pr.CCsIT/CCsIT/Pr.CsIT/CsIT in case of such claims will be subject to Following conditions:

- i. At the time of considering the case under Section 119(2)(b), it shall be ensured that the income/loss declared and/or refund claimed is correct and genuine and also that the case is of genuine hardship on merits.
- ii. ....”

6. The petitioner is a widow and is running a very small business of herbs and was at a loss in the year when she was running this business as a proprietor of the firm. As the delay in filing the return has been adequately explained by stating the complete factual matrix, this Court is inclined to allow the writ petition.

7. Accordingly, the writ petition is allowed while quashing the impugned order dated 07.11.2023 (Annexure-1). The respondents are directed to treat the return filed by the petitioner for the assessment year 2021-2022 within time. It is needless to say that the respondents shall be at a liberty to question the assessment on law but not on the limitation.

8. All pending applications stand disposed of.

**(MUNNURI LAXMAN),J**

**(DR. PUSHPENDRA SINGH BHATI),J**

7-Dharmendra Rakhecha & poonamS/-