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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 16352/2022**

SURINDER SINGH CHAUHAN ......Petitioner

Through: Mr D.V. Singh & Mr Arijeet Singh, Advs.

versus

THE UNION OF INDIA & ORS. ......Respondents

Through: Mr Vinish Phoghat, Adv. for R-1.
Mr Kunal Sharma & Ms Zehra Khan, Advs. for R-2&3.

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MS JUSTICE TARA VITASTA GANJU

O R D E R

% 29.11.2022

[Physical Hearing/Hybrid Hearing (as per request)]

CM APPL.51301/2022

1. Allowed, subject to the petitioner filing legible copies of annexures, at least three days before next date of hearing.

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2. This writ petition is directed against the order dated 18.02.2019 passed by the Principal Commissioner of Income Tax [in short "PCIT"].

2.1 *Via* this order, the PCIT has rejected the petitioner's application preferred under section 119(2)(b) of the Income Tax Act, 1961 [in short "Act"].

3. The record shows, that the petitioner had sought leave to file revised returns for Assessment Years (AYs) 2015-2016 and 2016-2017.

4. The original return for AY 2015-2016 was filed on 13.10.2015, while for AY 2016-2017, the original return was filed on 23.03.2017.

5. It is the assertion of the petitioner, that he inadvertently showed the compensation received on compulsory acquisition of his agricultural land as interest income, under the head "Income from Other Sources".

6. It is in this backdrop, that the assessee preferred the aforementioned application before the PCIT, to condone the delay in filing the revised returns.

7. A perusal of the impugned order shows, that the PCIT has taken recourse to Section 139(5) of the Act, and rejected the petitioner's application.

7.1 In sum, the PCIT has said, that since the time limit provided under Section 139(5) of the Act had already elapsed, the delay cannot be condoned.

8. It is claimed by the petitioner, that the compensation received is not taxable.

8.1 The petitioner asserts, that the PCIT could have looked at that aspect of the matter to condone the delay, in exercise of its power under Section 119(2)(b) of the Act.

8.2 Besides this, the petitioner also relies upon the circular dated 09.06.2015, issued by the Central Board of Direct Taxes (CBDT) under the very same provision i.e., Section 119(2)(b) of the Act.

9. It is the submission of the learned counsel for the petitioner, that the expression 'return' in the said circular should include a revised return.

9.1 Therefore, if delay can be condoned in filing the return in which refund or carry forward of loss is sought to be claimed, it can, according to the petitioner, also be sought by way of a revised return.

10. We may record, that although the impugned order was passed on 18.02.2019, the writ petition was filed only in October, 2022.

11. The petitioner will file an affidavit, explaining as to why he did not approach the Court at the earliest.

12. In any event, we are inclined to issue notice, as the matter, according to us, requires consideration.

13. Issue notice.

13.1 Mr Vinish Phoghat accepts notice on behalf of the respondent no.1/Union of India (UOI).

13.2 Likewise, Mr Kunal Sharma accepts notice on behalf of the contesting respondents i.e., respondent nos. 2 and 3.

14. Counter-affidavit will be filed within the next four weeks.

14.1 Rejoinder thereto, if any, be filed before the next date of hearing.

15. List the matter on 23.02.2023.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

NOVEMBER 29, 2022 / r

Click here to check corrigendum, if any