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

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Date of Decision : 08.05.2025

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W.P.(C) 3291/2025 and CM APPL. 15558/2025

SQUARE VISION INDIA PVT LTD

.....Petitioner

Through: Ms. Rano Jain, Mr. Venketesh
Chaurasia, Advocates.

versus

PCIT-7, DELHI

.....Respondent

Through: Mr. Anurag Ojha, SSC; Ms. Hemlata
Rawat, JSC; Mr. V.K.Saxena, JSC
with Mr. Dipak Raj, Mr. Shubham
Kumar and Ms. Garima Kumar,
Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J. (ORAL)

1. The petitioner has filed the present petition impugning an order dated 31.05.2024 [**impugned order**] passed under Section 119(2)(b) of the Act, whereby the learned Principal Commissioner of Income Tax-7, Delhi [**PCIT**] rejected the petitioner's application seeking condonation of delay of one day in filing the return for the Assessment Year [**AY**] 2016-17.

2. The petitioner's application was rejected essentially on two grounds. First, that the learned PCIT found that the delay in complying with the



statutory timeline for furnishing the return of income was not due to any genuine hardship. Second, that the petitioner's application could not be entertained as it was filed beyond the period of six years from the end of the relevant assessment year.

3. The petitioner has contested both of the aforesaid grounds, contending that the rejection on these grounds was unreasonable and arbitrary. Insofar as the issue of genuine hardship is concerned, it is relevant to examine the facts as set out by the petitioner in the present petition. The last date for filing the return for AY 2016-17 was 17.10.2016 and the same had been extended by the Central Board of Direct Tax [**CBDT**].

4. The petitioner was required to file its tax audit report alongwith the return. Additionally, the petitioner was also required to file Form 10CCB to avail of the deduction under Section 80IC of the Income Tax Act, 1961 [**the Act**]. The petitioner states that both documents were filed online on 17.10.2016, within the extended period for filing the return. It is the petitioner's case that after uploading these documents, the concerned person attempted to upload the income tax return [**ITR**] but, despite best efforts, he was unable to do so. According to the petitioner this was due to technical glitches in the income tax portal at the material time. The petitioner's ITR was uploaded on the following date, that is, on 18.10.2016.

5. The petitioner's return was picked up for scrutiny and processed under Section 143(1) of the Act and an intimation dated 11.01.2017 was issued, assessing the petitioner's total income at ₹49,90,690/- as against ₹34,17,280/- as declared by the petitioner. The same was on account of



disallowance of the petitioner's claim for a deduction of ₹15,73,413/- under Section 80IC, due to the delay in filing the return.

6. The petitioner filed a rectification application under Section 154 of the Act on 22.10.2018 and on the same date (22.10.2018) filed an application under Section 119(2)(b) of the Act, for the condonation of the delay of one day in filing the return.

7. The Revenue has filed a counter affidavit contesting the allegation that there was any technical glitch in its portal. The Revenue has also provided the number of ITRs filed on an hourly basis on 17.10.2016. The Revenue also confirms that the petitioner had filed the tax audit report and Form 10CCB on 17.10.2016 at 06:28 PM and 06:42 PM, respectively. The Revenue points out that several other returns were filed by the assesseees between 07:00 PM and 12 AM midnight on the same date and disputes the petitioner's claim of a technical glitch.

8. Whilst we are inclined to accept the Revenue's contention that there was no technical glitch in its portal during the relevant period, we find it difficult to disregard the petitioner's assertion that it had faced technical difficulties in uploading its ITR. The petitioner has claimed that, after successfully uploading the tax audit report and Form 10CCB, it was unable to upload the ITR form. There may be myriad of technical reasons for the petitioner encountering such a problem, including a technical glitch or human error at its end. However, we accept that the petitioner did face some hardship in uploading its ITR form. We are persuaded to accept this also for the reason that there is no plausible reason for the petitioner to have



refrained from filing its ITR after having commenced the process and uploaded two vital documents that were to be filed along with the ITR. More importantly, the petitioner's income could be ascertained on the basis of these documents.

9. The provisions under Section 119(2)(b) of the Act have been enacted with the primary object of relaxing the conditions where a case of genuine hardship is made out. In the present case, the petitioner's inability to file the return would clearly fall within this category. Thus, the denial of relaxation of a single day in a case where the petitioner had already commenced the process of uploading the documents and its return, in our view, is unsustainable.

10. It is well settled that every statutory power is also coupled with a duty to exercise such power. The learned PCIT, having been conferred the power to relax the conditions in cases of genuine hardship, was required to exercise that power in the petitioner's case, as the existence of genuine hardship was evident from the facts, as set out above.

11. The learned PCIT's decision that the petitioner's application could not be entertained as it was filed six years from the end of the assessment year is also patently erroneous. The impugned order records the petitioner's claim that it had filed its application under Section 119(2)(b) of the Act on 22.10.2018; however, since it had not received any response from the learned PCIT, it had sent repeated reminders. The application dated 06.02.2024, which was filed by the petitioner on 12.02.2024, was in the nature of reiterating its request for relaxation under Section 119(2)(b) of the



Act, which was initially made on 22.10.2018. The petitioner's application dated 06.02.2024 clearly records as under:

“Your kind attention is invited to Petition u/s 119(2)(b) of the IT Act dated 22.10.2018 filed by the assessee with your honor. A fresh petition was sent by e-mail at delhi.pcit8@incometax.gov.in on 16.07.2020. Again, the petition was submitted by email at delhi.cit8@incometax.gov.in on 24.11.2021. Copies of all the petitions are attached for your kind consideration.....”

12. The aforesaid passage is also noted by the learned PCIT in its impugned order. It is material to note the said fact is neither contested in the impugned order nor in the counter affidavit filed by the Revenue, thus, must be accepted as correct.

13. In view of the above, the impugned order is set aside. We direct that the petitioner's application under Section 119(2)(b) be allowed and the delay of one day in filing the ITR for AY 2016-17 be treated as condoned.

14. The petition is allowed in the aforesaid terms. The pending application also stands disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 8, 2025/sms

Click here to check corrigendum, if any