K. Dilip Kumar Vs. Assistant Commissioner of Income-tax and ors.

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SooperKanoon Citation : sooperkanoon.com/728690

Court : Kerala

Decided On : Sep-04-2000

Reported in : [2001]247ITR16(Ker)

Judge : J.B. Koshy, J.

Acts : Finance Act, 1998

Appeal No. : O.P. No. 5559 of 2000-J

Appellant : K. Dilip Kumar

Respondent : Assistant Commissioner of Income-tax and ors.

Advocate for Def. : P.K.R. Menon, Adv.

Advocate for Pet/Ap. : C. Kochunni Nair and; Dale P. Kurian, Advs.

Judgement :

J.B. Koshi J.

1. The petitioner applied for the benefit of the Kar Vivad Samadhan Scheme, 1998, for the payments due for the accounting year 1992-93. Admittedly, the petitioner failed to pay the amount required as per the scheme within the time limit. In paragraph 6 of the original petition, it is stated as follows :

'6. So, the balance outstanding as on March 31, 1998, in the year in question was reduced from Rs. 4,43,452, to an amount of Rs. 3,02,239, due to the fact that the coverage under the scheme is provided. But due to reasons, the petitioner could not pay the above amount within 30 days directed. The above amount as a whole was paid into the State Bank of Travancore, Kollam, on March 25, 1999. There has been a delay of 18 days which was caused due to financial stringency and paucity, a phenomenon which was beyond the control of the petitioner.'

2. There is no provision in the scheme for condonation of delay. The Kar Vivad Samadhan Scheme like the Voluntary Disclosure of Income Scheme is a self-contained scheme. To get the benefit thereof income-tax due and payable should be paid within time. There is no ground to condone the delay beyond the time permitted in the scheme. In the absence of special penalty provisions the respondents cannot condone the delay in making payment as per the scheme and extend the benefit of the scheme against' the terms of the scheme itself. Even, if there is a power to condone the delay, the reasons stated for not paying the amount within time and for the delay are not sufficient. In the above circumstances, the petitioner's contention in this aspect cannot be considered. In this connection, 1 refer to the decisions in Vyshnavi Appliances Pvt. Ltd. v. CBDT : [2000]243ITR101(AP) ; Kamal Sood v. Union of India and Hemalatha Gargya v. CIT : [2000]244ITR143(AP) .

3. Admittedly, there is a delay in paying the amount as per the scheme. Therefore, the petitioner cannot get any declaration from this court that the petitioner is entitled to the benefit of the Kar Vivad Samadhan Scheme, 1998. However, I direct the second respondent to dispose of exhibit P2 appeal expeditiously.

4. The original petition is, disposed of, accordingly.