

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

Friday, the 28th day of September 2018/6th Aswina, 1940

WP(C) No.31751/2018

PETITIONER

ASSOCIATION OF TAX PRACTITIONERS

DEVI NIVAS, PERUMANOOR P.O., KOCHI - 682 015, KERALA,

REPRESENTED BY ITS STATE TREASURER

RESPONDENTS

1. UNION OF INDIA

REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE,

MINISTRY OF FINANCE, ROOM NO.46,

NORTH BLOCK, NEW DELHI - 110 001

2. CHAIRMAN

CENTRAL BOARD OF DIRECT TAXES,

NORTH BLOCK, NEW DELHI-110003.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the respondents to accept the returns of the assesseees without realization of interest/fee/penalty on account of delayed filing of returns beyond 30.09.2018 pending disposal of this Writ Petition.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S SUKUMAR NAINAN OOMMEN, RAHUL IPE PRASAD, SHERRY SAMUEL OOMMEN, Advocates for the petitioner, and of SRI.SUSHEEL M MENON, CENTRAL GOVERNMENT STANDING COUNSEL for R1 and R2, the court passed the following:

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A. MUHAMED MUSTAQUE, J.

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W.P.(C) Nos.31751 of 2018 & 31520 of 2018

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Dated this the 28th day of September, 2018

ORDER

Petitioners seek an interim prayer to submit returns without insistence of payment of interest for the period of delayed filing of returns in tune with the explanation to Section 234 A of the Income Tax Act, 1961. It is pointed out that once an assessee is allowed to submit returns upto 15.10.2018, the department cannot demand interest for the extended period.

2. The matter requires further consideration and it can be decided only after the final hearing. In such circumstances, I am of the view that the assessee may pay the interest without prejudice to the contentions raised with regard to the illegality of such levy of interest. In case the petitioner is found not liable to make such interest the department shall refund such interest. These writ petitions are posted for further consideration on 11.10.2018.

Sd/

A. MUHAMED MUSTAQUE, JUDGE,

Skk/ 28.29918

/TRUE COPY/

ASSISTANT REGISTRAR

en/
29/09/18

29/09/18

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

Friday, the 28TH day of September 2018/6th Aswina 2018, 1940

WP(C).No.31520/2018(L)

PETITIONER(S)

HINDU ECONOMIC FORUM
ANUGRAHA TOWER
ARACKAKADAVU ROAD
VENNALA P O
COCHIN 28
REPRESENTED BY ITS PRESIDENT

RESPONDENT(S)

1. UNION OF INDIA
REPRESENTED BY SECRETARY
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE
ROOM NO 46, NORTH BLOCK
NEW DELHI-110001.
2. CHAIRMAN
CENTRAL BOARD OF DIRECT TAXES
NORTH BLOCK
NEW DELHI-110003

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the Respondents to accept the returns of the assesseees without realisation of interest/fee/penalty on account of delayed filing of returns beyond 30.09.2018 pending disposal of this Writ Petition .

This petition again coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.SUKUMAR NAINAN OOMMEN , SHERRY SAMUEL OOMMEN AND RAHUL IPE PRASAD Advocates for the petitioner and of JOSEPH ROMY JOSE, CENTRAL GOVERNMENT COUNSEL for R1, the court passed the following

A. MUHAMED MUSTAQUE, J.

=====

W.P.(C) Nos.31751 of 2018 & 31520 of 2018

=====

Dated this the 28th day of September, 2018

ORDER

Petitioners seek an interim prayer to submit returns without insistence of payment of interest for the period of delayed filing of returns in tune with the explanation to Section 234 A of the Income Tax Act, 1961. It is pointed out that once an assessee is allowed to submit returns upto 15.10.2018, the department cannot demand interest for the extended period.

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Sd/

A. MUHAMED MUSTAQUE, JUDGE,

/TRUE COPY/

ASSISTANT REGISTRAR

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