



HIGH COURT OF UTTARAKHAND AT NAINITAL
HON'BLE SRI JUSTICE MANOJ KUMAR TIWARI
Writ Petition (MS) No. 3129 of 2024

Sachin Kumar Gupta

--Petitioner

Versus

Principal Commissioner of Income Tax and another

- Respondents

With

Advocates: Mr. Siddhartha Singh, Advocate for the petitioner.

Mr. Hari Mohan Bhaatia, Advocate for the respondents.

JUDGMENT

1. Ministry of Finance, Government of India, framed Income Declaration Scheme Rules, 2016. Petitioner made declaration of his income under the said Rules. According to petitioner, his tax liability was determined as Rs. 79,66,038-, which was to be deposited in 3 installments; 1st installment of Rs. 19,91,520/- was deposited by petitioner on 20.11.2016; 2nd installment of Rs. 19,91,520/- was deposited on 29.03.2017 and the 3rd installment of Rs. 39,82,998/- was deposited through cheque in State Bank of India on 28.09.2017; however, the cheque was encashed on 05.10.2017.

2. Principal Commissioner, Income Tax Department, Dehradun passed an order on 21.05.2022, providing that declaration made by petitioner is treated as void, as the payment of final installment was made on 05.10.2017. Operative portion of the impugned order is extracted below:

“Although the details of challans provided by the declarant in Form-3 are matched but the declarant made defect in last payment of the final installment and made it on 05.10.2017 instead of on or before 30.09.2017. Accordingly, the declaration made by the assessee has been treated as void by the undersigned i.e. Pr. Commissioner of Income Tax, Dehradun in accordance with the Para 8 of the Circular No. 16 of 2016 of the CBDT, vide F.No. 370142/8/2016-TPL dated 20.05.2016.



2026:UHC:8984

The concerned information, as declared by the assessee in his Form-1 dated 26.09.2016, is being passed on to the concerned Jurisdictional assessing Officer, for appropriate action in the matter, if any, in accordance with the Section 197(b) of the Finance Act, 2016.”

Thus, feeling aggrieved, petitioner has approached this Court.

3. It is contended on behalf of petitioner that he deposited 3rd (final installment) through cheque No. 121569 in the account of Income Tax Department in State Bank of India, Branch Roorkee (Haridwar) on 28.09.2017, therefore he is not at fault if the amount of final installment was credited into the account of income tax department on 05.10.2017 due to intervening holidays. Thus it is contended that petitioner cannot be penalized for the delay on the part of bank in clearing the cheque and the fact remains that petitioner presented the cheque well within time, as 30.09.2017 was the last date of depositing the final installment.

4. Learned counsel for the petitioner refers to Circular No. 15/2019 dated 12.07.2019, which is on record as Annexure-5 to the writ petition. Clause 2 and 3 of the said circular, which are relevant, are extracted below:

“2. Bank Holidays towards the due-date for the third instalment: A clarification has been sought by the stakeholders regarding the third instalment stating that since 30th September, 2017 was a closed national holiday, whether the payments effected or completed on next working day of the banks would be treated as an on-time payment of the statutory liability towards the third instalment. It is seen that 1st October, 2017 & 2nd October, 2017 were also closed bank holidays, therefore, regular banking transactions could take place only on 3rd October, 2017 after 30th September, 2017. Therefore, in accordance with provisions of section 10 of the General Clauses Act, 1897, the Board hereby directs that all payments made/effectd by the declarants on 3rd October, 2017 shall



2026:UHC:8984

also be deemed to have been paid by the due date for the third instalment i.e. 30th September, 2017.

3. Delayed credit by the Bank while payment was tendered by the declarant in a timely manner: In some of the references, it is stated that payment through cheque, RTGS, electronic transfer etc. towards payment of liability was tendered in the bank on or before 30th September, 2017. However, on bank's endorsement, the date is mentioned after 30th September, 2017, which could render these declarations void. The genuine hardship of the declarants on account of procedural/technical issues with the banks has been considered. It has been decided that payments effected through cheque/RTGS/electronic transfer by the declarant by 3rd of October, 2017 (the deemed extended date for the third instalment as per para 2 above) which were credited by the banks till 5th October, 2017 shall be deemed to have been paid by 30th September, 2017. In this regard, the concerned Pr. CIT/CIT shall furnish a report to the Pr. DGIT (Systems) after necessary verification; to treat such payments to have been paid by the due date for the third instalment i.e. 30th September, 2017.”

5. Learned counsel for the petitioner submits that petitioner's case is squarely covered by the aforesaid circular, as petitioner deposited the final installment in the bank on 28.09.2017, the bank was closed on 30th September, 1st and 2nd October, 2017.

6. Learned counsel for petitioner drew attention to clause 3 of the Circular which provides that payment effected through cheque/RTGS/electronic transfer by the declarant by 3rd October 2017, which were credited by the banks till 05.10.2017, shall be deemed to have been paid by 30.09.2017.

7. A certificate issued by the Chief Manager, State Bank of India is enclosed with the writ petition, which indicates that cheque presented by petitioner in the Bank was encashed on 05.10.2017. Thus it is contended by learned counsel that benefit of income declaration scheme is wrongly denied to petitioner and petitioner



deposited all installments within stipulated time. He submits that circular dated 12.07.2019 leaves no room for doubt that deposit of final installment by petitioner was well within time.

8. Mr. Hari Mohan Bhatia, learned counsel appearing for Income Tax Department submits that based on document enclosed with the writ petition, it appears that petitioner deposited final installment through cheque in the bank on 28.09.2017 and the amount was credited in the account of Income Tax Department on 05.10.2017. Thus he submits that petitioner appears to be entitled to benefit of circular dated 12.07.2019.

9. Having regard to the facts and circumstances of the case, the writ petition is disposed of by directing respondent No. 1 to revisit the matter by ascertaining whether 3rd (final installment) was deposited by petitioner through cheque on 28.09.2017, and whether the amount was credited in the account of Income Tax Department on 05.10.2017, as alleged by petitioner. If respondent No. 1 is satisfied that petitioner's case is covered by circular dated 12.07.2019, then he shall pass necessary order granting benefit of Income Declaration Scheme, 2016, within six weeks from date of presentation of certified copy of this order.

MANOJ KUMAR TIWARI, J.

Dt: 05.10.2026

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