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

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*Date of Decision : 08.05.2025*

+ **W.P.(C) 1654/2025**

M/S NIKON FINLEASE PVT. LTD.

.....Petitioner

Through: Mr Amol Sinha and Mr Ankit Kumar,  
Advocates.

versus

PR. COMMISSIONER OF INCOME TAX -04, DELHI & ORS.

.....Respondents

Through: Mr Gaurav Gupta, SSC, Mr  
Shivendra Singh, Mr Yojit Pareek,  
JSCs and Ms Prakriti Rastogi,  
Advocate.

**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, *inter alia*, impugning an order dated 09.10.2024 [**impugned order**] passed by the learned Principal Commissioner of Income Tax, Delhi – 4 [**PCIT**] whereby the petitioner's application under Section 119(2)(b) of the Income Tax Act, 1961 [**the Act**] for condonation of delay in filing the revised income tax return [**ITR**] in respect of Assessment Year [**AY**] 2022-23, was rejected.

2. The petitioner states that it has been regularly filing its ITR for the



past assessment years. It had also filed its ITR for the AY 2022-23 on 03.11.2022. However, the Central Processing Centre [CPC] rejected the ITR filed by the petitioner on the ground that it was not accompanied by the Tax Audit Report [TAR]. According to the petitioner, there is no requirement for furnishing a TAR as its turnover was less than ₹10.00 Crores.

3. Accordingly, on 24.12.2022 the petitioner filed the response to the communication dated 14.12.2022 issued by the CPC under Section 139(9) of the Act. The said response was not accepted and the CPC rejected the petitioner's ITR on 13.12.2023 terming the same as invalid. The petitioner sent a communication dated 29.01.2024 seeking to contest the rejection of its ITR. This was followed up by raising a grievance before the CPC on 08.02.2024. Thereafter, on 04.06.2024, the petitioner also submitted the representation to respondent no.3.

4. The petitioner's grievance was not addressed to its satisfaction. In the aforesaid backdrop, the petitioner filed the aforesaid application under Section 119(2)(b) of the Act seeking condonation of delay in filing the revised ITR, which in a sense was to seek an opportunity to rectify the defects as pointed out by the CPC. However, the petitioner's application under Section 119(2)(b) of the Act for condonation of delay in filing the revised ITR was rejected by the impugned order.

5. The controversy essentially relates to the rejection of the petitioner's ITR on the ground that it was not accompanied with the TAR under Section 44AB of the Act. As noted above, according to the CPC, the TAR was



required to accompany the ITR filed by the petitioner.

6. We consider it apposite to refer to the communication dated 14.12.2022 issued by the CPC pointing out the defects in the petitioner's ITR and the probable resolution for the same. The contents of the said communication are set out below: -

**“Error Description**

Tax Payer has claimed gross receipt or Income under the head “Profits and gains of Business or Profession” more than 1 crore. however, books of account are not audited u/s 44AB of the Income Tax Act

**Probable Resolution**

The complete details of Profit and loss account and Balance Sheet are to be entered in Part A and taxpayer has to e-file the audit report, specified under Section 44AB.”

7. The petitioner disagreed with the resolution as suggested and communicated its reasons for the same. The same are set out below: -

**“Response**

Disagree

**Reason for disagreeing with the defect**

As per the provisions of Section 44AB of the Income Tax Act-1961, the limit of tax audit is Rs.10 Crores if the total amount received during the year in cash does not exceeds 5% of the total receipts and total payments made in cash during the year does not exceeds 5% of the total payments. Our cash receipt is Rs. NIL of total receipt of Rs.1,01,00,084 which does not exceeds 5% (0%) and total cash payment is Rs.2,81,069 of total expenditure of Rs.98,40,439 which does not exceeds 5% (2.86%).”



8. It is the petitioner's case that its turnover was less than ₹10.00 Crores, and therefore, it was not required to file TAR along with the ITR. The petitioner claimed that it satisfied requisite conditions for the availing the benefit of the higher turnover threshold of ₹10.00 Crores (instead of ₹1.00 Crores) as the payments made in it cash did not exceed 5 percent of the total payments and its cash receipts were NIL.

9. There is no cavil that in the given facts, the petitioner was not required to file TAR along with its ITR. The controversy essentially arises because of an inadvertent clerical error that had crept in the ITR filed by the petitioner: the petitioner had placed a tick mark in the check box "No" instead of "Yes" against the queries in paragraph (a2ii) and (a2iii) under the section 'Audit Information' of the ITR. The image of the relevant portion of the ITR is set out below: -

(a2ii)	If (a2) is Yes, Whether aggregate of all amounts received including amount received for sales, turnover or gross receipts or on capital account such as capital contribution, loans etc. during the previous year, in cash & non-acc payee cheque/DD, does not exceed five per cent of said amount? (Tick) <input checked="" type="checkbox"/>
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(a2iii)	If (a2) is Yes, Whether aggregate of all payments made including amount incurred for expenditure or on capital account such as asset acquisition, repayment of loan etc., in cash & non-acc payee cheque/DD, during the previous year does not exceed five per cent of the said payment? (Tick) <input checked="" type="checkbox"/>
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

10. Since the petitioner's case is that its cash payment and receipts did not exceed five percent of the total receipts and payments, the petitioner was required to tick the box with 'Yes' instead of box 'No'. It is the petitioner's contention that its ITR could not be rejected on this ground. However, there is no appeal provided against the order rejecting the ITR as invalid. We do



not consider it apposite to examine this question as the petitioner does not desire to pursue any contentious proceedings and seeks rectification of its return by filing the revised return. It is in the aforesaid context, the petitioner moved the application under Section 119(2)(b) of the Act.

11. It is apparent from the above that the entire controversy has arisen on account of checking the incorrect box in the return, which has no implication on the assessment of the income of the petitioner.

12. It is also material to note that the petitioner's claim that its cash receipts are NIL and its cash payment did not exceed five percent of the total payments is not controverted.

13. In the peculiar facts of this case, we are of the view that the petitioner has made out a case of genuine hardship for condonation of delay in filing the revised ITR. Accordingly, the petition is allowed and the impugned order is set aside. In case the petitioner files its revised ITR for the AY 2022-23 limited only to curing the aforesaid defects, within the period of two weeks from date, the same would be considered uninfluenced by the question of delay by the appropriate authority.

14. The petition is disposed of in the aforesaid terms.

**VIBHU BAKHRU, J**

**TEJAS KARIA, J**

**MAY 08, 2025**

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*Click here to check corrigendum, if any*