



2023/KER/53387

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

TUESDAY, THE 5<sup>TH</sup> DAY OF SEPTEMBER 2023 / 14TH BHADRA, 1945

WP(C) NO. 29120 OF 2023

**PETITIONER:**

SUTHEEPAN SOWMINI  
AGED 61 YEARS  
12/1294/5, THERADAPUZHA BUILDING., R.S.ROAD,  
PALAKKAD, PIN - 678 001.

BY ADVS.  
K.N.SREEKUMARAN  
P.J.ANILKUMAR (A-1768)  
N.SANTHOSHKUMAR

**RESPONDENTS:**

- 1 INCOME TAX OFFICER (TDS)  
AAYKAR BHAVAN, ENGLISH CHURCH RAOD,  
PALAKKAD, PIN - 678 001.
- 2 ASSISTANT COMMISSIONER OF INCOME TAX  
TDS CPC, AAYKAR BHAVAN, SECTOR-3, VAISHALI, GAZIABAD,  
UTTARPRADESH, PIN - 201 010.
- 3 COMMISSIONER OF INCOME TAX (APPEALS),  
NATIONAL FACELESS APPEAL CENTRE, NEW DELHI,  
PIN - 110 003.
- 4 CENTRAL BOARD OF DIRECT TAXES  
NORTH BLOCK, NEW DELHI, PIN - 110 002  
REPRESENTED BY ITS CHAIRMAN.
- 5 THE UNION OF INDIA,  
MINISTRY OF FINANCE, DIRECT TAXES DEPARTMENT,  
NEW DELHI, PIN - 110 001  
REPRESENTED BY ITS SECRETARY.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
05.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



**DINESH KUMAR SINGH, J.**

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**WP(C) NO. 29120 OF 2023**  
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**Dated this the 05<sup>th</sup> day of September, 2023**

**J U D G M E N T**

1. Heard Sri. K.N.Sreekumaran, Learned Counsel for the petitioner and Sri. Christopher Abraham, Standing Counsel for Income Tax.

2. The petitioner is challenging Ext.P1 to Ext.P6 pertaining to levied fees under Section 234E of the Income Tax Act, 1961 for imposing of late fee for filing delayed previous TDS return for the assessment year 2013-2014. The limited ground on which this writ petition has been filed is that, the demand notices are beyond jurisdictional envisagement. No late fee could be levied for not filing the previous return



for the period prior to 01.06.2015.

3. The Learned Counsel for the petitioner also submits that, in the present case, the period for which the impugned demand notices have been issued is prior to 01.06.2015 in respect of the assessment year 2013-2014. The Learned Counsel for the petitioner has also placed reliance on the grounds of the Judgment of this Court in the case of ***M/S. OLARI LITTLE FLOWER KURIES PVT. LTD. Vs. UNION OF INDIA*** in W.P.(C) No. 11175 of 2014 passed on 22<sup>nd</sup> October 2021. Paragraph 9.1 of the Judgment reads as follows.

*“9.1 Stated briefly, the writ petitioner challenges the intimation received under Section 200 A from the respondent/Revenue calling upon the writ petitioner to pay late fee for delayed filing of quarterly statements of*



*TDS. The periods for which the notices are issued are stated as prior to 01.06.2015. By following the judgment in W.P.(C) No. 37775/2018, as confirmed in W.A.No.722/2019, the writ petition stands allowed and the intimations dealing with filing of belated statements prior to 01.06.2015 are set aside. A return filed subsequent to 01.06.2015 is present, the respondents are given liberty to issue notice, hear the writ petitioner, and pass orders in accordance with law.”*

4. I find that the grievance of the petitioner thus covered by the said Judgment of the Division Bench and therefore, the Writ Petition is allowed. Impugned orders in Ext. P1 to Ext.P6 are hereby set aside.

Sd/-

**DINESH KUMAR SINGH**  
**JUDGE**

**APPENDIX OF WP(C) 29120/2023**

## PETITIONER'S EXHIBITS

- Exhibit-P 1 TRUE COPY OF THE INTIMATION DATED 08..04..2018 FOR 2ND QUARTER 24Q IN FINANCIAL YEAR 2012-13.
- Exhibit-P 2 TRUE COPY OF THE INTIMATION DATED 15..04..2018 FOR 2ND QUARTER 26Q IN FINANCIAL YEAR 2012-13.
- Exhibit-P 3 TRUE COPY OF THE INTIMATION DATED 16..04..2018 FOR 3RD QUARTER 26Q IN FINANCIAL YEAR 2012-13.
- Exhibit-P 4 TRUE COPY OF THE INTIMATION DATED 08..04..2018 FOR 3RD QUARTER 24Q IN FINANCIAL YEAR 2012-13.
- Exhibit-P 5 TRUE COPY OF THE INTIMATION DATED 08..04..2018 FOR 4TH QUARTER 24Q IN FINANCIAL YEAR 2012-13.
- Exhibit-P 6 TRUE COPY OF THE INTIMATION DATED 08..04..2018 FOR 4TH QUARTER 26Q IN FINANCIAL YEAR 2012-13.
- Exhibit -P7 TRUE COPY OF THE APPELLATE ORDER DATED 23..12..2021 FILED AGAINST EXHIBIT-P1 ISSUED BY THE 3RD RESPONDENT U/S.250 OF THE INCOME TAX ACT BEARING DIN-ITBA/NFAC/S/250/2021-22/1038054365(1).
- Exhibit -P8 TRUE COPY OF THE APPELLATE ORDER DATED 23..06..2023 FILED AGAINST EXHIBIT-P2 ISSUED BY THE 3RD RESPONDENT U/S.250 OF THE INCOME TAX ACT BEARING DIN-ITBA/NFAC/S/250/2023-24/1053902603(1).
- Exhibit-P 9 TRUE COPY OF THE APPELLATE ORDER DATED 23..12..2021 FILED AGAINST EXHIBIT-P3 ISSUED BY THE 3RD RESPONDENT U/S.250 OF THE



INCOME TAX ACT BEARING  
DIN-ITBA/NFAC/S/250/2021-22/1038054976(1).

Exhibit-P 10 TRUE COPY OF THE APPELLATE ORDER DATED  
24..12..2021 FILED AGAINST EXHIBIT-P4  
ISSUED BY THE 3RD RESPONDENT U/S.250 OF THE  
INCOME TAX ACT BEARING  
DIN-ITBA/NFAC/S/250/2021-22/1038100505(1).

Exhibit-P 11 TRUE COPY OF THE APPELLATE ORDER DATED  
23..12..2021 FILED AGAINST EXHIBIT-P5  
ISSUED BY THE 3RD RESPONDENT U/S.250 OF THE  
INCOME TAX ACT BEARING  
DIN-ITBA/NFAC/S/250/2021-22/1038054483(1).

Exhibit-P 12 TRUE COPY OF THE APPELLATE ORDER DATED  
23..12..2021 FILED AGAINST EXHIBIT-P6 ISSUED  
BY THE 3RD RESPONDENT U/S.250 OF THE INCOME  
TAX ACT BEARING DIN-ITBA/NFAC/S/250/2021-  
22/1038054898(1).

Exhibit -P13 TRUE COPY OF THE RECOVERY NOTICE DATED  
05..07..2023 BEARING  
DIN:ITBA/COM/F/17/2023-24/1054143659(1)  
ISSUED BY THE 1ST RESPONDENT.

Exhibit -P14 TRUE COPY OF THE JUDGMENT IN HEAD MASTER VS  
INCOME TAX OFFICER (TDS), W.P.(C) 1078/2022  
DATED 18.05.2022.

