

Sickness of wife not a valid excuse to delay return if her nature of illness and duration isn't given

Summary – The High Court of Gujarat in a recent case of Laljibhai Mohanbhai Ghori., (the Assessee) held that where assessee did not mention specific nature of illness of his wife, its duration and kind of treatment and, further, assessee's wife underwent operation long after due date of filing of return, reason of wife's severe illness could not be held to be satisfactory reason for condonation of delay

Facts

- The assessee filed late return. Later on, the assessee filed a revised return and moved an application stating reasons for late filing of return on ground of severe illness of his wife.
- The Assessing Officer rejected the claim stating that there was no genuine and satisfactory reason for late filing of return.
- Both the Commissioner (Appeals) and the Tribunal affirmed the order of the Assessing Officer.
- On appeal before the High Court:

Held

- The return filed by the petitioner was late by merely seven months. In order to explain such delay, the petitioner contended that the documents were misplaced in the Chartered Accountant's office and he, therefore, could not have filed the return in time. He further stated that his wife was suffering from severe illness for which she was operated on 14-2-2012 and only after her recovery, he was in a position to handover documents to his Chartered Accountant's office for filing return.
- The explanation offered by the petitioner cannot be accepted unless sufficiently strong reasons are shown. It would not be possible to find fault with the revenue authorities in exercising powers under section 119. Routine, liberal and overindulgent approach in condoning delay would open floodgates of applications, completely throwing the tax assessment and recovery machinery out of gear. The grounds raised by the petitioner for delay of nearly seven months were that Chartered Accountant's office lost the papers and therefore, could not file return and further, that due to the illness of his wife, he could not follow filing of return with the Chartered Accountant.
- A minor or a few days' delay could perhaps be explained by suggesting that the Chartered Accountant's office lost the papers. The delay was substantial. Further, in the application that the petitioner filed, he only stated that his wife had some severe illness without specifying the nature of illness, its duration and the kind of treatment needed. These aspects would be relevant since the operation that the petitioner claimed his wife underwent, took-place on 14-2-2012 *i.e.* long after the due date for filing the return, in the end of July of previous year. Thus, very clearly, the illness of wife had nothing to do with the petitioner's missing the date for filing the return. This additional ground, therefore, also does not in any manner, explained the delay.

- The amendment under section 139 does not in any manner suggest either explicitly or by necessary implication the same is meant to apply to all pending proceedings.
- In the result, the petition is dismissed.