

Bank failing to file its ITR within due dates denied carry forward of loss: HC

Summary – The High Court of Bombay in a recent case of Ganesh Sahakari Bank Ltd., (the Assessee) held that in the case of a Bank which has failed to file its ITR within due dates the carry forward of loss has to be denied

Facts

- The assessee was a co-operative bank. It had filed return for the relevant assessment year 2008-09 after the due date and claimed carry forward of losses.
- The Assessing Officer passed an order under section 143(3) rejecting the claim of carry forward of losses on the ground that the return was not filed within time.
- The Tribunal agreed with the AO but expressed an opinion that the proper course for the assessee would have been to seek condonation of delay in filing the return from the CBDT.
- The assessee, thereafter, approached the CBDT by filing appropriate application under section 119(2) seeking condonation of delay in filing the return.
- The CBDT dismissed said application.
- On writ:

Held

- After perusing the documents on record the HC found that assessee could not produce satisfactory evidence in support of having filed for a condonation of delay application with the CBDT within a reasonable time. Hence the assessee was not prompt in pursuing the remedies available to him. No case of interference is made out.
- By allowing the assessee's request, the assessment would need to be reopened after a gap of a very long period. Under these circumstances, the petition is disposed of.