



W.A.No.2167 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

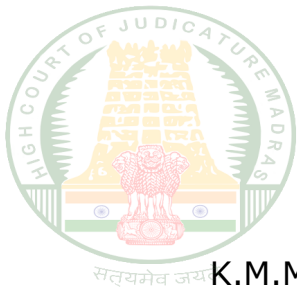
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.No.2167 of 2026
and C.M.P.No.18790 of 2026

1. Principal Commissioner of Income Tax
Central I, No.46, Old No. 108, M.G.Road,
Nungambakkam, Chennai-600 034.
2. Additional Commissioner of Income Tax
Central Range - I, No.46, Old No.108,
M.G.Road, Nungambakkam, Chennai-600 034.
3. The Assistant Commissioner of Income Tax
Central Circle - I (1) Income Tax New Building,
Room No.320, 4th Floor, No.46, Old No.108,
M.G.Road, Nungambakkam, Chennai-600 034.
4. The Director General of Income Tax
(Investigation) No.46, Old No.108, M.G.Road,
Nungambakkam, Chennai-600 034.
5. The Income Tax Officer (HQ) (Inv) (OSD)
Office of the Director General of Income Tax
(Investigation) 2nd floor, New Building,
New No.46 (Old No.1108) Mahatma Gandhi Road,
Chennai-600 034.

Appellant(s)

Vs



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K.M.Mammen

17, Boat Club Road, 3rd Avenue,
R.A.Puram, Chennai-600 028.

Respondent(s)

PRAYER: Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 16.12.2025 passed by the learned Single Judge in W.P.No.24029 of 2025 and allow the writ appeal.

For Appellant(s): Mr.A.P.Srinivas
Senior Standing Counsel

For Respondent(s): Mr.Abudu Kumar Rajaratnam
Senior Advocate
asst by Mr.Rajagopal Vasudevan

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

This intra-Court appeal, filed under Clause 15 of the Letters Patent, is directed against the order dated 16.12.2025 passed by the learned Single Judge in W.P.No.24029 of 2025, whereby the writ petition filed by the respondent/assessee was allowed and the matter was remitted for fresh computation of the compounding fee strictly in terms of the CBDT Guidelines dated 16.05.2008, after giving credit to the amount already paid.



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2. For the sake of convenience, the appellants herein as "*the Department*" and the respondent herein as "*the assessee*".

3.1. The dispute has a long and somewhat tortuous history, spanning several years and three successive rounds of litigation before this Court, apart from the cases determined by the Supreme Court. It would be useful to briefly recount that history before examining the correctness of the order under appeal.

3.2. The assessee, a septuagenarian industrialist, was subjected to reassessment proceedings under Section 147 of the Income-tax Act, 1961 [for brevity, "the Act"], for the assessment year 2002-03, in connection with monies said to have been deposited in a foreign bank account. Penalty proceedings under Section 271(1)(c) of the Act followed, and the penalty, though confirmed, was eventually restricted to 100% of the tax sought to be evaded, instead of 300%, by the Commissioner of Income Tax (Appeals) on 25.03.2014, a reduction which was affirmed by the Income Tax Appellate Tribunal on 27.09.2017.

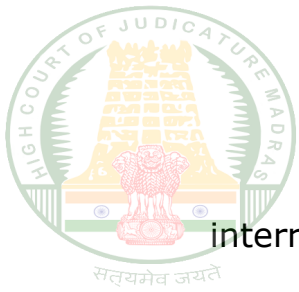


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3.3. The assessee's first application for compounding of the offence under Section 279 of the Act, filed on 25.03.2011, was rejected on 15.01.2014. The said order was set aside by a learned Single Judge of this Court on 28.08.2019 in W.P.No.3929 of 2014, with a specific finding that the reduction of penalty attracted Section 279(1A) of the Act, following the ratio in *Prem Dass v. ITO*¹, and the matter was remitted to the Committee prescribed under CBDT Guideline No.7.1(c), dated 16.05.2008, with liberty to the assessee to file a fresh application. This order was never challenged by the Department, and this omission proved decisive to the fate of the subsequent rounds of litigation.

3.4. Pursuant to the said order, the assessee filed a second application on 10.09.2019, which came to be rejected on 06.11.2019 by the Compounding Committee, again applying the 2008 Guidelines. A Contempt Petition filed by the assessee (Cont.P.No.2079 of 2019) was dismissed on 31.01.2020, of course with certain directions favourable to the assessee, having regard to a Circular dated 14.06.2019 that had come into force in the

¹ (1999) 5 SCC 241



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interregnum.

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3.5. The Department filed W.A.No.967 of 2020 and a Division Bench, by order dated 11.02.2021, set aside the directions issued in the contempt jurisdiction as being beyond its scope, while granting the assessee liberty to file a fresh compounding application, and observed that fresh guidelines could not be invoked to the assessee's prejudice in derogation of what had already been settled between the parties.

3.6. The assessee, accordingly, filed a third application on 05.03.2021. That application, too, was rejected on 30.08.2021, and was challenged in W.P.No.23800 of 2021. By order dated 13.04.2022, the learned Single Judge allowed that writ petition, holding, in paragraph 47, that it was a fit case for compounding the offence, having regard to the assessee's age and the fact that he had already paid the tax, interest and penalty, and directed the fourth respondent therein to compound the case "*by fixing the compounding fee to be paid by the petitioner, if it has not been already paid by the petitioner*". In paragraph 32 of that order, the



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learned Single Judge held that the Division Bench's order dated 11.02.2021 in W.A.No.967 of 2020 had impliedly held that the Circular dated 14.06.2019 could not be applied to the facts of the case, and that, by necessary implication, it was the Guidelines dated 16.05.2008, viz., the Guidelines in force when the very first application was filed on 25.03.2011, that continued to govern the compounding of the assessee's case.

3.7. The order dated 13.04.2022 was carried in appeal by the Department in W.A.No.1767 of 2022, which was dismissed by the Division Bench on 11.12.2023. The Division Bench expressly declined to examine whether the assessee was governed by the 2008 or the 2019 Circular, holding that the finding of the learned Single Judge in W.P.No.3929 of 2014, dated 28.08.2019, that the assessee was entitled to compound in view of the reduction of penalty, attracting Section 279(1A) of the Act as explained in *Prem Dass* (supra), had attained finality qua the Department, in the absence of any appeal by the Department, and that this finality could not be watered down. In paragraph 10 of that order, the Division Bench went further and held that the assessee was



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governed by the compounding guidelines dated 16.05.2008 in view of order dated 28.08.2019 in W.P.No.3929 of 2014.

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3.8. The Department carried the matter further in S.L.P.(C) No.7047 of 2024. The assessee had, independently, filed S.L.P.(Crl) No.6179 of 2019. Both were disposed of by the Supreme Court on 05.03.2025 by holding that S.L.P.(C) No.7047 of 2024 is dismissed and the questions of law, if any, are kept open, with a specific observation that "*in terms of the directions issued by the learned Single Judge in paragraph 47 of the judgment dated 13th April, 2022*", the Department is directed "*to calculate the compounding fee and communicate the same to the respondent within a period of 60 days*", and the assessee was granted one month thereafter to pay the fee so determined.

3.9. It was in ostensible compliance with the said order dated 05.03.2025 that the Department issued the impugned communication dated 11.06.2025, computing the compounding fee at Rs.1,29,88,765/-, expressly applying the revised compounding Guidelines dated 17.10.2024 that did not exist on the date any of



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the assessee's applications were filed and came into force nearly two-and-a-half years after the order dated 13.04.2022 which the Supreme Court had directed to be implemented.

3.10. The learned Single Judge, by the order impugned in this appeal, held that the application of the 2024 Guidelines to the assessee's case was unsustainable and, accordingly, set aside the impugned communication and directed a fresh computation strictly under the 2008 Guidelines within three months, after giving credit for any amount already paid.

4.1. Mr.A.P.Srinivas, learned Senior Standing Counsel appearing for the Department, contended that Explanation to Section 279(6) of the Act statutorily obliges the compounding authority to apply the Board's instructions in force at the time the compounding fee is actually computed, and that the ratio of *Y.P.Chawla v. M.P. Tiwari*² leaves no room for the compounding authority to apply an obsolete Circular merely because an application happened to be first filed under it.

² [1992] 195 ITR 607 (SC)



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4.2. He further submitted that the order dated 05.03.2025 of the Supreme Court was itself passed after the 2024 Guidelines had come into force, and that the Department was merely discharging the mandate of that order when they computed the fee under the extant Guidelines.

5.1. Per contra, Mr.Abudu Kumar Rajaratnam, learned Senior Standing Counsel appearing for the assessee, supported the order under appeal and contended that the question as to which Guidelines governed the assessee's compounding application stood conclusively and finally determined first by the unchallenged order dated 28.08.2019 in W.P.No.3929 of 2014, then by the order dated 13.04.2022 in W.P.No.23800 of 2021, and thereafter by the order of the Division Bench dated 11.12.2023 in W.A.No.1767 of 2022, which was never carried in appeal on that specific finding.

5.2. He further submitted that the sole purpose of the order dated 05.03.2025 of the Supreme Court was to bring finality to the quantification exercise and it could not construed as a tool to



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reopen an issue that had never even been urged before the Supreme Court and that stood concluded in the assessee's favour.

6. The question that falls for our consideration is whether the compounding fee payable by the assessee could lawfully be computed under the compounding Guidelines dated 17.10.2024, or whether, as held by the learned Single Judge, it had to be computed strictly in accordance with the CBDT Guidelines dated 16.05.2008.

7. We have heard counsel on either side and perused the entire chain of orders passed in the three earlier rounds of litigation, culminating in the order dated 05.03.2025 of the Supreme Court, as well as the order under appeal.

8. At the outset, it is to be emphasized that this is the fourth successive order passed by the compounding authority and the third round of litigation before this Court. The assessee filed an application for compounding on 05.03.2021. The fate of that very application was conclusively determined by the order dated 13.04.2022 in W.P.No.23800 of 2021, which held, in clear terms,

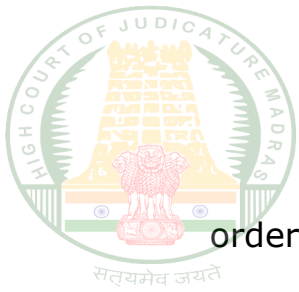


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that the Circular dated 14.06.2019 could not be applied "impliedly" per the Division Bench's order dated 11.02.2021, and that it was the 2008 Guidelines, in force when the first application was filed in 2011, that continued to hold the field. The said finding was carried in appeal by the appellants and was expressly affirmed by the Division Bench on 11.12.2023 in W.A.No.1767 of 2022, and this finding of the Division Bench attained finality.

9. It is well settled that a finding recorded by a court of competent jurisdiction, once it attains finality *inter partes*, binds the parties in all subsequent proceedings touching the same cause of action. The Department, having allowed the finding regarding the applicability of the 2008 Guidelines to become final, cannot be permitted to reopen that very question through the device of a subsequent Circular in the course of complying with a direction to quantify the fee.

10. The Supreme Court, vide order dated 05.03.2025, required the Department to calculate the compounding fee and did not direct the Department to adjudicate once again. Nothing in that



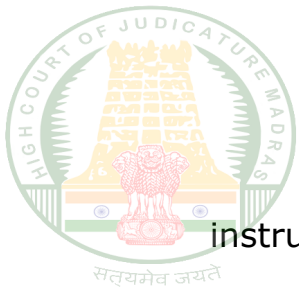
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order can be read as licence to revisit an issue that had been settled by three concurring orders of this Court.

11. The reliance placed by the Department on the decision of the Supreme Court in *Y.P.Chawla* (supra) is misplaced. The said decision is an authority for the proposition that the exercise of discretion under Section 279(2) of the Act must conform to the Board's instructions "*from time to time*", by virtue of the Explanation. The Supreme Court, in that case, held thus:

"The Explanation is in the nature of a proviso to Section 279(2) with the result that the exercise of power by the Commissioner under the said section has to be subject to the instructions issued by the Board from time to time. The Explanation empowers the Board to issue orders, instructions or directions for the proper composition of the offences under section 279(2) and further specifically provides that directions for obtaining the previous approval of the Board can also be issued. Reading section 279(2) along with the Explanation, there is no matter of doubt that the Commissioner has to exercise his discretion under section 279(2) in conformity with the instructions issued by the Board from time to time."

12. In the case at hand, the question of which set of



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instructions governs the application has already been judicially determined and has attained finality between the parties. The Explanation to Section 279(6) empowers the Board to issue instructions for the proper composition of offences and it cannot be read as conferring upon the executive the power to override or annul, retrospectively, a final judicial determination rendered in the lis involving the same parties.

13. We may also note that even on its own terms, the 2024 Guidelines do not assist the appellants. Paragraph 3.2 thereof, extracted in the order under appeal, permits an application to be filed afresh only where an earlier application was rejected on account of specified curable defects, such as non-payment of outstanding tax or short payment of compounding charges, and expressly excludes from its scope applications "*rejected in the past on merits by the Competent Authority*". The respondent's application dated 05.03.2021 was never rejected on any such curable ground. On the contrary, it was allowed on merits by this court vide order dated 13.04.2022, which attained finality on 11.12.2023. There was, therefore, no occasion for treating the



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assessee's case as one falling within paragraph 3.2, so as to attract the fee structure prescribed thereunder.

14. The submission of the Department that paragraph 47 of the order dated 13.04.2022 must be read, along with paragraph 42 thereof, as a reference to the Circular dated 14.06.2019, is equally unpersuasive. Paragraph 32 of that said order records, in clear terms, that the Division Bench order dated 11.02.2021 had impliedly held that the 2019 Circular could not be applied to the facts of the case, and paragraph 42 goes on to record only that the 2019 Circular vests a measure of discretion in the Department, using it to demonstrate that even offences "*normally not to be compounded*" could, in an appropriate case, be compounded. On a wholesome reading of the said order, and particularly in the light of the Division Bench judgment dated 11.12.2023 affirming that the assessee was governed by the 2008 Guidelines, the Department's selective reading of paragraph 42 cannot be accepted.

15. For the aforegiven reasons, we are in agreement with the view taken by the learned Single Judge that the determination of

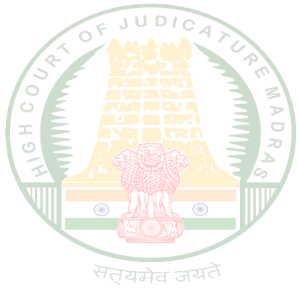


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the compounding fee payable by the assessee under the Guidelines dated 17.10.2024 was unsustainable, and that the fee had to be computed strictly in accordance with the CBDT Guidelines dated 16.05.2008, giving credit for any amount already paid by the assessee.

16. In the result, we find no merit in this writ appeal. The order dated 16.12.2025 passed by the learned Single Judge in W.P.No.24029 of 2025 is affirmed in its entirety, including the direction to appellant No.5 herein to complete the fresh calculation of the compounding fee, strictly in accordance with the CBDT Guidelines dated 16.05.2008, after adjusting the compounding fee already paid by the assessee, within a period of three months from the date of receipt of a copy of this judgment, whereafter the assessee shall pay the amount so determined within such time as may be stipulated, and the case shall stand compounded accordingly.

17. The writ appeal is, accordingly, dismissed.

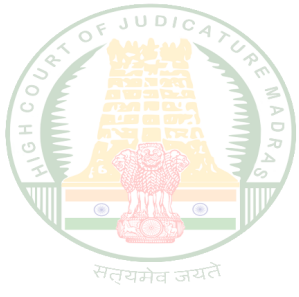


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There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(SUSHRUT ARVIND DHARMADHIKARI, CJ) (G.ARUL MURUGAN,J)
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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

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