

Sandeep Nahar and Anr.	}	Petitioners
versus		
Union of India and Ors.	}	Respondents

Mr. Pradeep S. Jetly for the Respondents.

DATED :- JANUARY 4, 2016

The Writ Petition under Article 226 of the

(a) to issue an appropriate writ, order or direction striking down the impugned second proviso to sub-rule (3) of Rule 4 of the Compounding Rules as ultra vires of section 137(3),
or

In the alternative to read down and expound the scope and extent of the impugned proviso to apply only to such cases where the applicant/assessee seeks compounding of the offence after adjudication proceedings against him are completed, and his liability to penalty etc is determined, and not to a case where an assessee approaches for compounding of the offence even before such adjudication takes place.

(b) And consequently, to issue a writ of mandamus or in the nature of mandamus directing Respondent no. 3 to expeditiously decide on merits, the application dated 10/11-10-2015 for 'Compounding' (at Exhibit-'B' supra), without waiting for the adjudication of the case.

2) After some arguments, Mr. Nankani, learned Senior Counsel appearing for the Petitioners would submit that the Petitioners would be satisfied presently with a direction to Respondent No. 3 to consider application dated 11th October, 2015, copy of which is at Annexure 'B' to the Petition and communicate the decision thereon as expeditiously as possible.

2) On instructions, it is stated that the Petitioners are presently not pressing the challenge to the validity and legality of the Rule, particularly Second Proviso to sub-Rule 3 of Rule 4 of the Compounding Rules.

3) Upon such a limited request, we inquired from Mr. Jetly appearing for the Respondents as to whether the Respondents would communicate the decision on the application made by the Petitioners as expeditiously as possible.

4) Mr. Jetly states that the decision on the application stated to be one made for compounding of certain offences would be communicated within a period of four weeks from the date of

receipt of a copy of this order. We accept this statement as an undertaking given to this Court. We direct that till the decision as above is communicated to the Petitioners, the Respondents shall not launch any criminal prosecution against the Petitioners. We do not think that any other order or protection is needed and necessary. This order is passed without prejudice to the rights and contentions of both sides.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)