IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2537 OF 2018

Ramprakash Biswanath Shroff .. Petitioner

v/s.

Commissioner of Income Tax-TDS & Ors. .. Respondents

Mr. Ramprakash B. Shroff, petitioner in person
Mr. Suresh Kumar for respondent no.1
Mr. Naresh Thacker a/w Mr. Anay Banhatti, Mr. Prateek Bansal i/b Economic Laws Practice for respondent nos. 2 to 5

CORAM : AKIL KURESHI &
M.S. SANKLECHA, J.J.

DATED : 11th JANUARY, 2019

P.C.

1. The petitioner appears in person. In the present petition, he has made following prayers.

> *"(a) This Hon'ble Court may be pleased to issue the writ of mandamus or writ in the nature of mandamus or any other appropriate writ, thereby directing the respondent no.1 to collect all the information relating to Tax Deducted at Source from salary for the financial year 1st April, 2017 to 31st March, 2018 relevant to assessment year 2018-19 from respondent no.2 by exercising its power under sections 133A, 133C and recover the Tax Deducted as per the provision of Income Tax Act read with the Income tax Rules and arrange or cause to arrange issue of Form 16 to the petitioner so that petitioner can file its Income Tax Return in time without any penalty.*
>
> *(b) This Hon'ble Court may be pleased to issue the writ of mandamus or writ in the nature of mandamus or any other*

appropriate writ, thereby directing the respondent no.1 to consider and initiate proceedings under section 276B of Income Tax Act against respondent no.2 to 5.

(c) That this Hon'ble Court be pleased to pass general directions, directing respondent nos. 1 to be vigilant in respect of respondent no.2 in future and ensure compliance of Income Tax Act and Rules by respondent no.2 in future.

(d) Any other and further reliefs as this Hon'ble Court deems fit and proper in the interest of justice."

2. At the outset, the petitioner stated that he has now received TDS Certificate and Form 16 from the employer. His main grievance which was the reason for him to file the present petition thus stands resolved. He however, submitted that Income Tax Department should initiate action against the employer under Section 276B of the Income Tax Act, 1961 and should take appropriate steps so that the employer does not repeat such behavior of not issuing TDS Certificate after deducting TDS from the employees. He submitted that the Department has not taken appropriate steps against the employer as a result, large amount of tax recoveries are outstanding, which are not being effectively made. He also argued that not depositing the tax deducted at source from the employee in the Government revenues, would amount to misappropriation of public funds. He submitted that prosecution under Section 405 of the Indian Penal Code should also be initiated.

3. In view of the fact that the petitioner's principal grievance stands resolved, in the facts of the present case, we are not inclined to examine the petition further. Any of the submissions made by the petitioner and the reliefs claimed pursuant to such submissions, would be in the realm of public interest litigation, in which form this petition as admitted, is not filed.

4. Our attention was drawn to an order dated 18th October, 2018 passed by the Division Bench of this Court in which certain observations have been made. The Department is aware about the said order and we are sure that the Department will take appropriate view in connection with such observations. With respect to the initiation of proceedings under Section 276B of the Act also, we find that the same is within the purview of the Department's consideration and we expect that the department will take appropriate view on the basis of facts on record.

5. With these observations, the petition is dismissed.

(M.S. SANKLECHA, J.) **(AKIL KURESHI, J.)**