HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No.19582 of 2018

ORDER: (per Hon'ble Sri Justice V.Ramasubramanian)

Aggrieved by the rejection of a second application for compounding of offences punishable under Section 276B of the Income Tax Act, 1961, the petitioners have come up with the above Writ Petition.

Heard Ms.Deepthi Anand, learned Counsel appearing for the petitioners and Ms.K.Mamatha, learned Senior Standing Counsel appearing for the respondents 2 to 4.

The petitioners first made an application on 02.12.2013 for compounding of the offences punishable under the Act. But, the application was not accompanied by proof for payment of the amounts due. Therefore, the application was not entertained.

A second application for compounding was made, after the Department launched prosecution. Even though while making the second application, the petitioners did not make any payment, they claimed adjustment of certain amounts. But, the second application was rejected on the ground that the first application already stood rejected. Therefore, the petitioners have come up with the above Writ Petition.

In the course of hearing of the Writ Petition, the petitioners filed additional set of documents enclosing copies of challans which are allegedly unconsumed challans for the years 2008-2009 and 2011-2012. If these challans are actually unconsumed as claimed by the petitioners, the Department could have taken a completely different view than the view they took to prosecute the petitioners. Since the petitioners have now come up with the materials which were not before the Department, either at the time of filing of the first application or at the time of filing of the second application, it would be ideal if the Commissioner of Income Tax is directed to look into these challans.

Therefore, the Writ Petition is disposed of permitting the petitioners and any other Director of the 1st petitioner company if arrayed as an accused in the criminal prosecution, to make a representation to the 3rd respondent, highlighting as to how there were no dues, with particular reference to any unused challans. If the 3rd respondent, upon verification of the records either available with him already or produced by the petitioners, is convinced that there were no amounts actually due, then the 3rd respondent may take an appropriate action for withdrawal of the prosecution. If the 3rd respondent has any clarification to seek with respect to the claim made by the petitioners, he shall communicate the same to the petitioners. Till the 3rd respondent takes a decision and communicate the same to the petitioners, the further proceedings before the Criminal Court shall stand stayed.

Consequently, miscellaneous petitions, if any, pending in the Writ Petition shall stand closed. No order as to costs.

V.RAMASUBRAMANIAN, J

P.KESHAVA RAO, J

09.04.2019
Gsn.

HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD