THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

AND

THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION No.3568 of 2020

ORDER: (Per Hon'ble Sri Justice M.S. Ramachandra Rao)

Heard Ms. Pratyusha Boppana, learned counsel, representing the learned counsel for the petitioner and Sri J.V. Prasad, learned senior standing counsel for the Income Tax Department.

2. The petitioner has assailed the order dated 29.01.2020 passed under Section 279 (1) of the Income Tax Act, 1961 (for short 'the Act') by the respondent No.1 granting sanction for prosecution under Section 276B of the Act for prosecution of the petitioner company and two of its Directors.

3. This order had been preceded by a show cause notice dated 14.03.2017 wherein it was stated that the respondent No.1 had perused the facts of the petitioner's case and found that the CPC-TDS has processed quarterly TDS statements filed by the petitioner for the financial year 2014-15 and has generated the demand of Short payment/Late payment Interest and that there was a clear violation of the provisions of chapter XVIIB of the Act.

4. No particulars have been given for which month there is short payment and which month there is late payment and which provision of chapter XVIIB of the Act was violated. When such serious action, as a prosecution, is sought to be sanctioned by the respondent No.1, it is incumbent on him to give more particulars so that the petitioner can reply specifically to the allegation leveled against it.

5. We are of the considered opinion that the show cause notice dated 14.03.2017 issued under Section 279(1) of the Act to the petitioner is vague and on the basis of the said show cause notice, the impugned order dated 29.01.2020 could not have been passed by the respondent No.1.

6. Accordingly, the order dated 29.01.2020 passed by the respondent No.1 as well as the show cause notice dated 14.03.2017 issued by the respondent No.1 are set aside and liberty is granted to the respondent No.1 to issue fresh show cause notice to the petitioner with specific particulars about the alleged violation by the petitioner of the provisions of the Act with supporting material. Thereafter, the petitioner is directed to reply to the same within four (4) weeks of receipt of the said show cause notice; and the respondent No.1 shall then pass a reasoned order in accordance with Section 279 of the Act and communicate it to the petitioner.

The writ petition is allowed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed. There shall be no order as to costs.

M.S. RAMACHANDRA RAO, J

T. AMARNATH GOUD, J

February 26, 2020
DSK