IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16746 of 2021

==

Maurya Motors Private Limited a company incorporated under the Companies Act, 1956 having its Head Office at C-1 Patliputra Industrial Area, Patliputra, Patna through its Director Shyam Sunder Khadria (Male) (aged about 75 years) Son of Late Prahlad Rai Khadria Resident of 201 Ravi Mansion, Tarkeshwar Path, Opp. Vindhyachal Apartment, East Boring Canal Road, Patna, Bihar- 800001.

... ... Petitioner/s

Versus

1. Union of India through its Secretary, Ministry of Finance, Department of Revenue, having its office at North Block, New Delhi.
2. Central Board of Director Taxes through its Chairman, having its office at North Block, New Delhi.
3. Principal Chief Commissioner of Income Tax, Patna having its office at Central Revenue Building, Bir Chand Patel Marg, Patna.
4. Asst. Commissioner of Income Tax, TDS Circle, Patna, having its office at Central Revenue Building, Bir Chand Patel Marg, Patna.

... ... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. D.V. Pathy, Advocate

For the Respondent/s : Mr. Dr. Krishna Nandan Singh, ASG

==

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

==

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

==

Date : 24-01-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

i) the Circular F. No.285/08/2014 –IT (Inv.V)/147 (as contained in Annexure-10) issued by the respondent no.2 dated 14.06.2019 prescribing fee for compounding of offences under the Income Tax Act, 1961 (hereinafter called the Act) without taking notice of interest statutorily payable for the delay in payment of tax deducted at source particularly, in absence of a statutory prescriptions in Section 279?

ii) the Circular of the Board (as contained in Annexure-10) to the extent it provides for payment of an arbitrary amount of 3 or 5% inclusive of statutory interest already paid for compounding an offence be struck down as arbitrary and without sanction of law.

iii) the order passed by the respondent no. 2 (as contained in Annexure-6) directing payment of a sum equal to ₹ 44,81,385 despite payment of the amount of tax deducted at source along with interest thereon as prescribed in Section 201 of the Act is arbitrary, excessive and exorbitant?

iv) the order dated 09.04.2021 (as contained in Annexure-7) passed by the respondent no. 2 for the Assessment Year 2018 – 19.

v) in the alternative and without prejudice to the prayers made above the respondent no. 2 be directed to grant payment of compounding fee determined in 10 equal monthly instalments?

vi) for granting any other relief (s) to which the petitioner is otherwise found entitled to.

Shri D.V. Pathy, learned counsel for the petitioner invites our attention to the contents of Paragraph No. 13 of the affidavit dated 23rd of November, 2021 filed by Shri Santosh Kumar Verma, posted as Assistant Commissioner of Income Tax, TDS Circle, Patna, which is reproduced as under:

> "13. That in reply to paragraph No. 27 of the writ petition it is stated that as regards, reduction in the compounding fees, it is stated that the Para 13.10 of the Compounding Guidelines dated 14.06.2019 provides that:
>
> > '... In extreme and exceptional cases of genuine financial hardship, the compounding charges may be suitably reduced with the approval of the Finance Minister'.
>
> Therefore the petitioner can move a petition before the Hon'ble Finance Minister through the Competent Authority, for reduction of compounding fees for consideration on merits."

Shri D.V. Pathy, learned counsel for the petitioner states that petitioner shall be content if petition is disposed of reserving liberty to the petitioner to take recourse to the compounding guidelines dated 14th of June, 2019, reproduced supra. However, the only assistance which the petitioner wants from the Revenue is to immediately forward the application to the competent authority for consideration in accordance with law.

Well, we see no objection in allowing such payer made on behalf of the petitioner.

As such, petition stands disposed of in the following terms:-

(a). If so desired, petitioner shall take recourse to the mechanism provided under the compounding guidelines dated 14.06.2019;

(b) Respondent No. 3 namely Principal Chief Commissioner of Income Tax, Patna having its office at Central Revenue Building, Bir Chand Patel Marg, Patna, shall ensure that the petitioner’s application is forwarded expeditiously, in accordance with law;

(c) We are hopeful that the competent authority shall take a decision thereupon expeditiously, as per law;

(d) We have not expressed any opinion on the merit of the case. All issues of fact and law are left open.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	27.01.2022
Transmission Date	