IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.06.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.11477 & 11481 of 2019
&
W.M.P.Nos.11745 & 11748 of 2019

1.Shri.Ghisulal Kothari ...Petitioner in W.P.No.11477 of 2019
2.Shri.Shanthilal Kothar ...Petitioner in W.P.No.11481 of 2019

Vs.

1.The Principal Commissioner of Income Tax,
Central -1,
No.46, Nungambakkam High Road,
Chennai – 600 034. ...Respondent in both W.Ps.

2.The Assistant Commissioner of Income Tax,
Central Circle -1(1),
No.46, Nungambakkam High Road,
Chennai – 600 034.

3.The Tax Recovery Officer,
Central -1, Room No.321, III Floor,
No.46, Nungambakkam High Road,
Chennai – 600 034. .... Respondent in both W.Ps.

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Order under Sec.220(2A) of the I.T.Act 1961 in C.No.1543/PCIT/C-1/3/2017-18 dated 28.03.2019 passed by the 1st respondent and quash the same as arbitrary, without application of mind and unsustainable in law and further, direct the 1st respondent to grant waiver of interest as prayed for in the application of the petitioner dated 26.03.2018.

For Petitioners : Mr.Mudimannan

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel
: Mr.ANR.Jaya Prathap
Junior Standing Counsel

COMMON ORDER

The petitioners challenge an order dated 28.03.2019 passed under Section 220(2A) of the Income Tax Act, 1961 ('Act'), rejecting application filed by them seeking waiver of interest under Section 220 (2A) of the Act.

2. A search was conducted in the premises of the petitioners on 18.12.2012 and there was a voluntary disclosure of amounts of Rs.10,66,33,822/- & 10,71,76,450/- by the respective petitioners in the course of the search. Assessments were completed by orders dated 31.05.2015 based upon the disclosure made and bringing to tax the aforesaid amounts.

3. Assessments have attained finality, and have not been challenged in appeal/revision. The petitioners were thus called upon to remit the demand of tax arising from the income disclosed and offered to tax by the petitioners, which included interest.

4. Consequent upon the assessments of tax, penalty also appears to have been imposed as against which alone, the petitioners filed appeals before the Commissioner of Income Tax (Appeals) and thereafter the Income Tax

Appellate Tribunal. The stage of the penalty appeals are unknown but are not relevant to decide these writ petitions.

5. While this is so the petitioners appear to have approached the respondents, seeking waiver of the interest levied for delay in the remittance of the taxes. This application has come to be rejected by way of the impugned order.

6. Mr.M.A.Mudimannan appearing for the petitioners would stress upon the extreme hardships faced by the assessees in remitting taxes, though with delay. Moreover, he attributes the difficulties to the substantial delay on the part of the respondents in issuing refunds to the companies in which the petitioners' were Directors.

7. Had such refunds been paid in time, he submits that the same would have been utilized by them to settle their tax demands earlier and intime.This submission would hold no water in the present case, seeing as the demand of tax has been made on the admitted income offered by the petitioner to tax in the returns of income.

8. Had it been a case where the tax demand had arisen on account of additions/disallowances to the admitted income, the position may have been viewed differently.However, seeing that the tax demand in the present case arises entirely from admitted income and the order of has assessed and attained finality, there is no merit in these writ petitions. The impugned orders are

confirmed and these writ petitions, dismissed. Connected writ miscellaneous petitions are closed. No costs.

30.06.2022

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Index : Yes / No
Speaking Order / Non Speaking Order

To:
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2.The Tax Recovery Officer,
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Dr.ANITA SUMANTH,J.

nst

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