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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 7912/2022

M/S SKA INFRASTRUCTURE PVT. LTD. ..... Petitioner

Through: Mr.Nikhil Majithia with Mr.Radhesh Makrandi and Mr.Rohitashva Chakraborty, Advocates.

versus

UNION OF INDIA & ANR. ..... Respondents

Through: Mr.Gigi C.George with Mr.Dheeraj Singh, Advocates for UOI.
Mr.Sanjay Kumar, senior standing counsel for the Revenue with Ms.Easha Kadian, Advocate.

% Date of Decision: 23rd May, 2022

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

C.M.No.24121/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) 7912 /2022 & C.M.No.24120/2022

1. Present Writ Petition has been filed challenging the order dated 22nd April, 2022 by which the petitioner's application for compounding of offences was rejected.

2. Learned counsel for the petitioner states that the Commissioner of Income Tax (TDS), Delhi-2, New Delhi vide Order dated 31st January, 2019 sanctioned launch of prosecution against the petitioner company through its Directors for delayed submission of tax deducted at source (TDS) amounting to Rs.22,95,203/- for the financial year 2012-13 with the Government Account. He further states that on 01st July, 2019, Complaint Case No.7594 of 2019 was filed by Income Tax Office, before ACMM, Central, Tis Hazari Courts, New Delhi under Section 276-B read with 279 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act'). He states that the petitioner company in the year 2021 made payment of interest amounting to Rs.7,75,242/- & late fees penalty amounting to Rs.2,60,485/-, i.e. a total amount of Rs.10,35,727/- and hence currently no unpaid demand is referenced on the online ITD system /Traces of Income Tax Department.

3. He further states that the Director of the petitioner company sought for compounding of offences under Section 279 (2) of the Act by filing application dated 20th January, 2022 before CCIT (TDS), Delhi. However, the said application was rejected vide order dated 10th February, 2022 on the ground that it was not filed within limitation and in prescribed form.

4. He states that though the petitioner company and both the Directors had filed a fresh compounding application dated 14th March, 2022 in prescribed format, yet the CCIT (TDS), Delhi mechanically rejected the said application vide Order dated 22nd April, 2022 stating that it was filed belatedly i.e. beyond the limitation period. He emphasises that from March 2020, the entire country was under a lockdown due to Covid-19 pandemic outbreak. He contends that impugned order is in disregard of the orders dated 23rd March, 2020 and 10th January, 2020 and 10th January, 2022

passed by the Supreme Court of India in ***In Re: Cognizance for Extension of Limitation Suo Motu Writ Petition (Civil) No.3/2020*** extending limitation during Covid-19 pandemic.

5. He lastly states that the delay in filing the compounding application was due to unforeseen medical circumstances as the father of the Directors was in a precarious physical condition since December 2019, which ultimately resulted in his death on 31st March, 2021.

6. Issue notice. Mr.Gigi C.George, Advocate accepts notice on behalf of UOI and Mr.Sanjay Kumar, learned standing counsel accepts notice on behalf of the Revenue.

7. Mr.Sanjay Sharma states that the petitioner's compounding application has been rejected in accordance with the Clause 7(ii) of the Guidelines for Compounding of Offences dated 14th June, 2019 inasmuch as the petitioner's compounding application was delayed by thirty three months.

8. Having heard learned counsel for the parties, this Court is of the view that the power of compounding of offences is a quasi-judicial power, as it definitely entails a judicial element/function and the discretion in compounding is not unfettered. Consequently, this Court is of the view that the petitioner is entitled to the benefit of extension of limitation as directed by the Supreme Court in ***Cognizance for Extension of Limitation Suo Motu Writ Petition*** (supra).

9. Accordingly, the order dated 22nd April, 2022 passed by the respondents-Revenue is set aside and the CCIT (TDS), Delhi-2 is directed to consider afresh the petitioner's application for compounding of offences under Section 279 of the Act on merits and communicate to the petitioner a

reasoned decision thereon within eight weeks.

10. With the aforesaid directions, present writ petition along with pending application stands disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

MAY 23, 2022
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