IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.11.2023

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.23771 of 2023
& Crl.M.P.Nos.16517 & 16518 of 2023

Kabir Ahmed Shakir, PAN – AMCPS1886L,
S/o.Mr.Ghouse Shakir,
No.2, Mir Bakshi Ali Street,
Royapettah, Chennai – 600 014.

Now residing at,
A 902 Joy Legend Society,
Ambedkar Road, Khar West,
Mumbai – 400 052. ... Petitioner/Accused

/versus/

Mr.G.Kannan,
Assistant Commissioner of Income Tax,
Non-Corporate Circle – 16(1),
Chennai – 600 034. ... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., pleased to call for records in pending in E.O.C.C.No.152/2017 on the file of Additional Chief Metropolitan Magistrate, Economic Offence – II, Egmore, Chennai and quash the case as against the petitioner/Accused for alleged offence under Section

276 CC of the Income Tax Act, 1961.

For Petitioner : Mr.A.Ramesh, Senior Counsel,
for M/s.Lakshmi Kumaran & Sridharan

ORDER

This Criminal Original Petition is filed by the assessee to quash the criminal prosecution instituted against him under Section 276 CC of the Income Tax Act, 1961, for not filing the Income Tax Returns for the Assessment year 2013-2014.

2. According to the petitioner, he was on move during the relevant period and left India to take up an overseas employment and therefore, though he has filed the returns for the subsequent assessment years, by oversight, failed to file his Income Tax Returns for the Assessment year 2013-2014. Further, submitted that, he is ready to compound the offence, since he has already paid the interest with penalty and an opportunity may be given to compound the offence.

3. This Court, after relying upon Section 279 (2) of the Income Tax Act, which provides for compounding the offence before or after institution of proceedings, the circular of Central Board of Direct Taxes dated 16.09.2022 and the Learned Senior Counsel appearing for the petitioner pray for a direction to the Income Tax Department to consider his representation for compounding the offence.

4. The Statute and the circular of the Income Tax Department enables a defaulter to compound the offence. While so, the petitioner has failed to file his returns for the Assessment year 2013-2014, with sufficient cost. Hence, seeks leave of this Court to compound the offence, which is now been culminated in filing of a complaint before the Additional Chief Metropolitan Magistrate, Egmore, in E.O.C.C.No.152 of 2017.

5. Accordingly, this ***Criminal Original Petition is disposed of*** with a direction to the petitioner herein to place his requisition for compounding the offence before the Assessing Authority, within a period of 30 days. On such representation, the Income Tax Department shall take appropriate action and report before the Additional Chief Metropolitan Magistrate, Egmore in the pending E.O.C.C.No.152 of 2017. Consequently, connected Miscellaneous Petitions are closed.

10.11.2023

Index :Yes/No.
Internet :Yes/No.
Speaking Order/Non-Speaking Order
bsm

Copy to:-
1. The Additional Chief Metropolitan Magistrate, Economic Offence – II, Egmore, Chennai.

2. Mr.G.Kannan,
Assistant Commissioner of Income Tax,
Non-Corporate Circle – 16(1),Chennai – 600 034.

DR.G.JAYACHANDRAN, J.

bsm

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