IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.45 OF 2024

WATERWAYS SHIPYARD PVT. LTD REP. BY ITS AUTH. SIGNATORY RAMCHANDRA SHIRODKAR AND ANR. ... PETITIONERS

Versus

THE INCOME-TAX DEPARTMENT REPRESENTED BY THE DEPUTY COMMISIONER OF INCOME-TAX ... RESPONDENT

Mr. Parag Rao with Ms. S. Drago and Mr. Ajay Menon [through V.C.], Ms. Nandini Kedilaya, Advocates for the Petitioners.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 3rd July, 2024

P.C.

Heard Mr. Rao for the Petitioners.

2. The Petition is challenging the issuance of process and filing of the complaint under Section 276C (2) read with Section 278 (b) of the Income Tax Act, by the Income Tax Department, alleging that the Petitioners evaded tax and failed to carry out self-assessment.

3. Mr. Rao submits that though the communications between the parties show that self-assessment of tax was carried out and even an amount of Rs.35 lakhs i.e. more than the self-assessment tax, was deposited by the Petitioners in the year 2018 itself, this fact has been

suppressed in the complaint by the Department and accordingly, cognizance was taken and summons were issued to the Petitioners.

4. The record clearly shows that the Petitioners were served in the year 2022 itself and the matter is still pending before the concerned Court. The Petitioners ought to have informed the concerned Court about the payment of tax in the year 2018 itself and accordingly, could have sought for discharge. Instead of that, the Petitioners approached this Court and that too after a period of two years from the receipt of summons from the concerned Magistrate.

5. Accordingly, the Petitioners are granted liberty to approach the concerned Magistrate to file the necessary Application for discharge along with the documents showing that the tax was already paid in the year 2018 itself and that this fact is suppressed in the complaint. If such an Application is filed, the learned Magistrate shall decide it in accordance with law and as expeditiously as possible.

6. Mr. Rao now submits that the matter was taken up by the Trial Court on 01.07.2024 and a non-bailable warrant is issued against Petitioner No. 2, who is 79 years old and suffering from health issues. He submits that though the matter is now fixed before the Trial Court on 15.07.2024, Petitioner No. 2 will file an Application for discharge on or before 08.07.2024.

7. In such circumstances, the Trial Court is directed not to execute the non-bailable warrant issued against Petitioner No. 2 till the returnable date i.e. 15.07.2024.

8. In view of the above observations, the present Petition stands disposed of.

BHARAT P. DESHPANDE, J.

Signed by: ESHA SAINATH VAIGANKAR
Designation: Personal Assistant
Date: 04/07/2024 14:55:33