IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2370 OF 2022

Vahanvati Consultants Pvt.Ltd and another Petitioners
versus
The State of Maharashtra and another Respondents

Mr.Suyash Gadre with Ms.Srija Singh i/by Alathea Law LLP, Advocate for Petitioners.
Ms.Samiksha Kanani with Ms.Prasanna Pawar, Advocate for Respondent no.2.
Mr.Y.Y.Dabake, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 3rd January 2024

PC :

1. Petitioners are challenging Order dated 23rd January, 2019 issuing process passed in complaint No.1661/SW/2018 by learned Metropolitan Magistrate, 38th Court, Ballard Pier, Mumbai for offences u/s.276(C)(1) r/w 278(B) of Income Tax Act.

2. The Petitioner No.1 is a successor of Global Mansions Pvt. Ltd. The controversy in complaint relates to entry in Global Mansions Pvt. Ltd. (GMPL) books of account for a trade receivable. GMPL filed return of income on 27th September, 2012. It was processed u/s. 143(1) of Income Tax Act. Assessment proceedings were initiated. The Assessment Officer computed the book profit u/s. 115 by adding set off of provisions made for bad debts at Rs.3,65,57,600/- which resulted into MAT income of Rs.3,51,92,800/- as against MAT Income of Rs.114,45,535/- shown in return. Appeal was filed challenging order of Assessment Officer before CIT(A). The

commissioner upheld the impugned decision by order dated 21st November, 2016. The said order was challenged before ITAT. Vide order dated 13th September, 2019 the ITAT rejected the assessment made by Assessing Officer.

3. The Petitioners contend that decision of ITAT holds that deductions with respect to 'provisions for doubtful debt' was correctly made by GMPL. The said order demolishes the genesis for the proceedings initiated u/s. 276 C(1) against the Petitioners.

4. The respondent no.2 has filed affidavit-in-reply dated 2nd January, 2024. In the reply it is stated that PCIT has not accepted the decision of the ITAT in principle. However, no further appeal u/s. 260 A of the Act has been recommended due to the tax effect being below the monetary limit prescribed in Board Circular No.17/2019 dated 8th August, 2019 and the case does not fall under any of the exceptions mentioned in paragraph no.10 of the Board's Circular No.3/2018 and as amended vide letter dated 20th August, 2018.

5. Learned Advocate for respondent no.2 on instructions submitted that respondent no.2 would withdraw the impugned complaint. Written instructions received by the learned Advocate for respondent no.2 are placed on record, wherein it is sated that complaint would withdrawn within one month.

6. Without going into the merits of the case, since Respondents are withdrawing the complaint, the petition can be disposed off.

ORDER

(i) Respondent no.2 is at liberty to withdraw the impugned C.C. No.1661/SW/2018 pending before the Court of learned

Additional Chief Metropolitan Magistrate 38th Court Ballard Pier Mumbai within a period of four weeks from date of uploading this order.

(ii) Petition is disposed off.

(PRAKASH D. NAIK, J.)

MST