IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.Nos. 6593, 6597, 6629 & 6630 of 2021
and
Crl.M.P.Nos.4367, 4368, 4370, 4372, 4422, 4424,
4426 & 4427 of 2022

1. M/s.Sengoda Gounder Educational and
   Charitable Trust,
   rep. by S.Thangavelu, Chairman

2. S.Thangavelu, Chairman,
   M/s.Sengoda Gounder Educational and
   Charitable Trust

3. T.K.Rajeswari, Trustee,
   M/s.Sengoda Gounder Educational and
   Charitable Trust

4. S.Palaniammal, Trustee,
   M/s.Sengoda Gounder Educational and
   Charitable Trust

5. T.Dheepan, Trustee,
   M/s.Sengoda Gounder Educational and
   Charitable Trust

6. C.T.Sheelan, Trustee,
M/s.Sengoda Gounder Educational and
Charitable Trust .. Petitioners in all Crl.O.P.s

Versus

The Income Tax Officer,
TDS Ward-2, Coimbatore,
Income Tax Office,
1510, Mayflower Midcity,
2nd Floor, Trichy Road,
Coimbatore-641 018. ... Respondent in all Crl.O.P.s

PRAYER in Crl.O.P.No. 6593 of 2021: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.1752 of 2020 pending on the file of Judicial Magistrate No.III, Coimbatore and quash all further proceedings against the accused.

PRAYER in Crl.O.P.No. 6597 of 2021: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.1754 of 2020 pending on the file of Judicial Magistrate No.III, Coimbatore and quash all further proceedings against the accused.

PRAYER in Crl.O.P.No. 6629 of 2021: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.1755 of 2020 pending on the file of Judicial Magistrate No.III, Coimbatore and quash all further proceedings against the accused.

PRAYER in Crl.O.P.No. 6630 of 2021: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.1753 of 2020 pending on the file of Judicial Magistrate No.III, Coimbatore and quash all further proceedings against the accused.

For Petitioners in all Crl.O.P.s	:	Mr.P.Ramesh Kumar
For Respondent in all Crl.O.P.s	:	Mr.Navin Karthikeyan, Special Public Prosecutor (I.T.)

COMMON ORDER

These Criminal Original Petitions have been filed seeking to quash the charge sheets in C.C.Nos.1752, 1754, 1755 and 1753 of 2020 on the file of learned Judicial Magistrate No.III, Coimbatore respectively.

2. Heard both sides.

3. The petitioners are ranked as A1 to A6 in the complaint filed by the respondent for the offence punishable under Sec.276 B r/w Sec.278 AA of the Income Tax Act stating that the accused are running an education institution at Coimbatore in the name of M/s.Sri Shakthi Institute of Engineering and Technology and they are liable to deduct tax at source in respect of expenditure covered by the provisions of Chapter XVIIB of the Income Tax Act, 1961. However, the accused though having deducted the tax at source, remitted the same belatedly and the same was seen from the data collected from system, thereby there was a significant failure on the part of accused to pay the tax deducted at source to the Government account within the time limit as required under law. Therefore, the respondent initiated a complaint against them. According to the prosecution, the petitioners have belatedly paid the tax and there was seven months delay in each deduction. Whereas, it has to be made within 6 or 7 days from the last day of the month and only tax deduction

is made and thereafter it was not remitted, thereby they have violated the provision of Sec.200(1) of Income Tax Act.

4. By way of reply, the learned counsel for petitioners would submit that the delay on their part is neither wanton nor any malafide intention. In fact, during that period, the staff, who was looking after the accounts left the concern on maternity leave. So, proper instructions was not given to the petitioners. Hence, the delay was occurred, however, they have remitted the tax amount. Therefore, they prayed to quash the proceedings initiated against them.

5. The learned Government Advocate (Criminal side) appearing for respondent raised objections stating that the delay is caused in paying the tax amount. Hence, they are liable to be prosecuted under Sec.276B r/w Sec.278 AA of the Income Tax Act.

6. Admittedly, the fact reveals that there is a delay on the part of petitioners and they have subsequently remitted the tax amount and delay

is not caused wantonly, but only due to the concerned staff left the concern on maternity leave, the delay was caused. Furthermore, it was subsequently rectified and thereafter, they have deducted the tax amount properly and remitted the same without any delay. So, on seeing the conduct of petitioners, the proceedings initiated against them is liable to be quashed. Accordingly, these Criminal Original Petitions are allowed and the proceedings initiated in C.C.Nos. 1752, 1754, 1755 and 1753 of 2020 on the file of Judicial Magistrate No.III, Coimbatore is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

07.02.2024

Index: Yes/No
Internet: Yes/No
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To

1. The Income Tax Officer,
   TDS Ward-2, Coimbatore,
   Income Tax Office, 1510, Mayflower Midcity,
   2nd Floor, Trichy Road, Coimbatore-641 018.

2. The Public Prosecutor,
   High Court, Madras.

T.V.THAMILSELVI, J.

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